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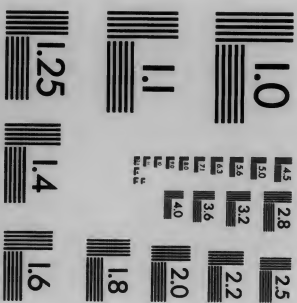
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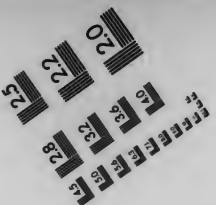
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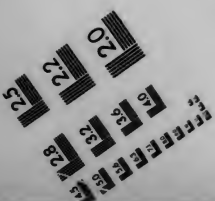
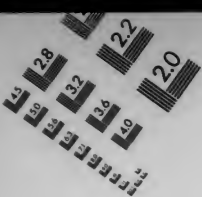
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# Volume 1

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71st CONGRESS }  
3d Session }

SENATE

PRELIMINARY REPORT  
OF STUDY OF  
RAILROAD CONSOLIDATIONS  
AND UNIFICATIONS

PURSUANT TO  
SENATE RESOLUTION No. 290, 71st CONGRESS

SUBMITTED TO COMMITTEE  
ON INTERSTATE COMMERCE

BY

WM. C. GREEN, SPECIAL COUNSEL

PART 1

Printed for the use of the Committee on Interstate Commerce



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## LETTER OF SUBMITTAL

HON. JAMES COUZENS,  
*Chairman Committee on Interstate Commerce,*  
*United States Senate.*

SIR: I respectfully submit herewith a report of the study made by me as counsel for the Committee on Interstate Commerce, at your direction, pursuant to Senate Resolution 290.

WM. C. GREEN.



## PRELIMINARY REPORT OF STUDY OF RAILROAD CONSOLIDATIONS AND UNIFICATIONS

### PART I

#### SENATE RESOLUTION 290

This resolution provides:

"That for the purpose of obtaining information as a basis for legislation the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is hereby authorized and directed to make a study of and to investigate the matter of consolidation and unification of railroad properties and the effect of such consolidations and unifications upon the public interest.

"The committee shall report to the Senate the results of its studies and investigation, including such recommendations for legislation as it deems advisable."

#### SCOPE OF INVESTIGATION AND STUDY

The matter of railway consolidations has been a subject of study and investigation by Congress and congressional committees, by the Interstate Commerce Commission, and by economists and other students of transportation problems for more than 10 years. Various amendments to the consolidations provisions of the transportation act of 1920 have been proposed from time to time and a large amount of testimony taken in connection with the consideration of these proposals.

In 1921, at the request of the Interstate Commerce Commission, after a careful study, Prof. William Z. Ripley, of Harvard University, prepared a plan of consolidation intended to comply with the provisions of the transportation act, and thereafter, during the same year, the commission agreed upon a tentative plan, differing slightly from that proposed by Professor Ripley. Hearings on the tentative plan were held by the commission from time to time from 1922 on, and on December 9, 1929, the commission published a comprehensive plan for consolidations, pursuant to paragraph 4 section 5 of the interstate commerce act, grouping the carriers of the United States into 21 systems.

While, from a superficial consideration, it might appear that further investigation and study would be superfluous, and while it appears to have been assumed in many of the hearings to which reference has been made, that the United States is committed to a policy of railroad consolidation and unification, the widespread dissatisfaction manifested as to the commission plan, and the passage by the



Senate of Senate Joint Resolution 161 providing for the suspension of consolidations and acquisitions of control except under limitations prescribed by that resolution, are strongly indicative of a wide difference of opinion, both as to the general policy and as to consolidations and unifications proposed.

A special investigation is being conducted by the Committee on Interstate and Foreign Commerce of the House with reference to holding-company operations. Such operations are considered in this study only as they enter into a general consideration of the subject of investigation.

#### OUTLINE OF INVESTIGATION AND STUDY

In order to make an impartial study of the consolidation problem we must start without prejudice against the policy; at the same time we should not assume that the country is committed to it.

The report of the committee on S. 5817 (Rept. No. 1884, 70th Cong., 2d sess.) states:

"There are virtually no differences of opinion upon the basic question of policy involved in the bill. Everyone familiar with present-day railroad problems, either from the point of view of the carrier, the shipper, or the public, believes that the carriers and their properties should be consolidated into a limited number of well-balanced systems capable of giving the public the service it demands at rates reasonable to the carrier, the shipper, and the public; capable of being operated in a manner to promote the highest efficiency and to render the most dependable service; capable of assuring continued service to the communities that are dependent upon the railroads and of protecting the public that has invested in them; and capable of solving satisfactorily many of the perplexing transportation problems of the present and of meeting the problems of the future as new transportation conditions and necessities arise."

There is no question as to the desirability of a transportation system capable of accomplishing the things recited in the portion of the report just quoted as ultimate results to be sought; but during the past year enough dissenting voices have been heard to warrant an inquiry as to whether there is a unanimity of opinion that consolidation will accomplish these results.

The general supposition has been that at the time of the passage of the transportation act certain conditions existed in our transportation system which required adjustment; that under the existing national policy such an adjustment could not take place; that the consolidation features of the transportation act were adopted to make this adjustment possible; and that our national policy as to consolidations was radically changed, especially in relation to consolidations which might violate the antitrust laws. It is because of this supposition that all the efforts of Congress during the past 10 years have been to work out a practical consolidation scheme, and until very recently no thought was given to reconsidering the policy of consolidation, and testing it to determine whether it is in the public interest and will accomplish what it was intended to accomplish. Some confusion may have arisen from taking it for granted

that consolidation was adopted as a governmental policy, rather than as a governmental experiment.

This study can be of no value unless it is made as a reconsideration, and it would seem that the only way to impartially reconsider the matter is to start at the beginning and to examine all phases of the problem in the light of the experience of the past 10 years.

In order to make such a study and to assemble information which may be a guide for future legislation we may well consider the subject under the following heads:

- (1) History prior to transportation act of 1920.
- (2) Transportation act of 1920 and legislative history.
- (3) Reasons for enactment of consolidation provisions.
- (4) Original intention as to maintenance of competition and classes of roads to be consolidated.
- (5) Action by Congress and the Interstate Commerce Commission since the transportation act:
  - (a) Ripley plan, and plans of the commission.
  - (b) Defects in consolidation provisions of act.
  - (c) Proposed amendatory legislation, 1924-1929.
  - (6) Hearings before Senate and House committees and opinions of witnesses pro and con on—
    - (a) Reasons for consolidation provisions in law.
    - (b) Advantages of consolidation.
    - (c) Weak-line problem.
    - (d) Complete plan of consolidation.
    - (e) Competition.
    - (7) Weak roads enumerated by Senator Cummins as illustrations demonstrating necessity for consolidation, and subsequent history.
    - (8) Present condition of railroads.
    - (9) Acquisitions of control under paragraph 2, section 5, 1920-1930; analyses of such acquisitions:
      - (a) Have voluntary acquisitions shown tendency of strong systems to take in weak roads?
      - (b) Have acquisitions effected benefits intended by Congress in enactment of law?
      - (10) Effects of short-haul provisions in cases of consolidation—through routes.
      - (11) Effects of consolidation on labor.
      - (12) Opinions of students of consolidation not in records of hearings.
      - (13) Proposed consolidations.
      - (14) Holding companies.
      - (15) Present proposed legislation.
      - (16) Conclusions.
        - (a) Are there differences of opinion as to policy of consolidation?
        - (b) Basis of consolidation provisions of transportation act.
        - (c) Benefits anticipated from consolidation.
        - (d) Intention of Congress as to maintenance of competition.
        - (e) Intention of Congress in exempting consolidating carriers from antitrust acts.
        - (f) Has consolidation legislation accomplished original purpose?
        - (g) Will consolidation result in substantial economies?

- (h) Will consolidation result in reduction of rates?
- (i) Benefits of consolidation.
- (j) Who will receive benefits, if any?
- (k) Will there be corresponding detriments?
- (l) What effect will consolidation have on labor?
- (m) What effect will consolidation have on shippers?
- (n) Objections to consolidations:
  1. Subject to antitrust laws.
  2. In violation of antitrust laws.
  3. Short and weak lines.
  - (o) Additional legislation necessary.
  - (p) Amendments as to procedure.
  - (q) Public interest; preservation of competition and maintenance of through routes.
  - (r) Program of consolidation to aid weak roads.
  - (s) Should consolidation policy of transportation act be continued?

#### HISTORY PRIOR TO TRANSPORTATION ACT OF 1920

Railroad consolidations commenced as early as 1853. Between 1853 and 1858 the foundations of the New York Central system were laid by the consolidation of 16 different railroad organizations. This system; the Pennsylvania system, which was originally about 600 different corporations; the Santa Fe; the Southern Pacific; and other great systems were formed in this way. The early consolidations were largely end-to-end attachments for the purpose of tying lines together for continuous transportation service and acquisitions of lateral lines as feeders.

The motives for these early consolidations were:

1. The extension of road under a single operating head for the carrying of through traffic between great trade centers.
2. To secure increased ability to handle the increasing traffic developing from a rapidly growing agricultural and manufacturing industry.
3. To secure uniform standard equipment and practice in the continuous handling of traffic.
4. To avoid the delays and expense involved in frequent transfers.
5. Later, and especially from 1899 to 1903, attempts were made to build up large systems in line with the general movement of that time for combinations and the idea of big business.

(Hearings House Committee on Interstate and Foreign Commerce on H. R. 11212, May 24, 1926, p. 20, testimony of Dr. C. S. Duncan.)

During the eighties there was a movement by the States and in Congress to extend the regulation of railway operation. In a substantial majority of the States laws were passed prohibiting railway consolidations by companies owning parallel or competing lines.

(Hearings on extension Government control of railroads, 1919, p. 540.)

On February 4, 1887, the interstate commerce act was passed.

In 1890 the Sherman act was passed, and in 1897 the Supreme Court held in the Trans-Missouri Freight Association case (166 U. S. 290) that the Sherman Act applied to railroads, and that rate agreements, pools, and traffic associations for the purpose of preventing competition by competing railroads were illegal. This and another

similar decision put an end to the practice of making such agreements and pools, which had been established for the purpose of preventing cut-throat competition and mutual destruction by competing railroads. It will be kept in mind that up to this time there was no legislation giving the Interstate Commerce Commission the power to fix rates.

In 1904, in the Northern Securities case (193 U. S. 197), the Supreme Court held that the defendant, a holding company, should be enjoined from acquiring, holding, or voting the shares of the capital stock of two competing railroad companies—the Northern Pacific and Great Northern. This had been the first attempt to consolidate two large competing roads through the medium of a holding company.

In 1912, in the Union Pacific Railroad case (226 U. S. 61), the Supreme Court again applied the Sherman Act to railroads, and held that the purchase by the Union Pacific of 46 per cent of the stock of the Southern Pacific, with the resulting control of the latter's railway system by the former, was an illegal combination in restraint of interstate trade.

On October 14, 1914, the Clayton Act was passed. Section 7 of this act specifically prohibits the acquisition, direct or indirect, of the whole or any part of the stock of a corporation engaged in commerce by another corporation also engaged in commerce, where the effect of such acquisition may be to substantially lessen competition or create a monopoly. The act also condemns interlocking directorates.

Consolidations and acquisitions of control since the decisions in the Northern Securities and Union Pacific cases have been largely confined to noncompeting roads, to stock control, and to feeder lines, in conformity to the antitrust laws and, since 1920, under the supervision of the commission (except for such virtual consolidations as have been effected through the medium of holding companies, without regulation.)

It is apparent that up to the time of the passage of the transportation act it was the prevailing economic theory that the public interest was best served through competition, both in rates and in service, between rail carriers, with regulation by the Interstate Commerce Commission to prevent discriminations, rebates, and unjust and unreasonable rates.

#### TRANSPORTATION ACT OF 1920 AND LEGISLATIVE HISTORY

##### CONSOLIDATION PROVISIONS IN ACT

By the transportation act specific provision was made for consolidations and acquisitions of control of railroads. That act provides:

(a) By paragraph 2, section 5, for the acquisition, with the permission of the Interstate Commerce Commission, by one railway carrier of the control of any other such carrier, either under a lease, or by the purchase of stock, or in any other manner not involving the consolidation of the carriers into a single system for ownership and operation.

(b) By paragraph 4, section 5, for the preparation and adoption by the commission of a plan for the consolidation of the railway properties of the continental United States into a limited number of systems; under which plan

Competition shall be preserved as fully as possible;

Existing routes and channels of trade and commerce maintained wherever practicable; subject to which requirements—

The several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the value of the properties through which the service is rendered shall be the same so far as practicable, to the end that the systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties.

(c) Consolidations must be in harmony with the complete plan of consolidation and approved by the commission.

(d) Stock and bonds of corporation becoming owner of consolidated properties not to exceed value of consolidated properties as determined by commission under section 19 (a).

(e) Carriers affected by any order made under the provisions of section 5, and any corporation organized to effect a consolidation approved and authorized in such order shall be relieved from the operation of the antitrust laws, and from all other restraints or prohibitions by law, State or Federal, so far as necessary to enable them to do anything authorized or required by any such order.

The transportation act of 1920 was a compromise measure prepared by the conferees of the Senate and House after the passage by the House of H. R. 10543 (66th Cong., 1st sess.) and the amendment of that measure by the Senate by substituting the language of S. 3288. The consolidation provisions of the act as passed represent in a greater measure the provisions of the Senate bill than those of the House bill.

#### PLANS PRESENTED TO CONGRESS

Following is a synopsis of the various plans which were presented to Congress:

##### Senate committee plan:

Consolidation of all railroad properties into 20 to 35 systems, in accordance with a plan previously adopted by the Railway Transportation Board and approved by the Interstate Commerce Commission—consolidation to be voluntary if accepted within seven years, and if not, compulsory.

##### Interstate Commerce Commission plan:

Consolidation of existing railroad systems when approved by the Interstate Commerce Commission.

##### Railway executives' plan:

Consolidation of existing lines into strong competitive systems whenever found to be in the public interest; and also providing for joint use of equipment and terminals when in the public interest.

National transportation conference of the United States Chamber of Commerce:

Consolidation of existing railroads into strong competitive systems, under conditions prescribed by the Federal Transportation Board, with provision that if after five years the consolidations planned by the board are not well advanced, the board may require their completion.

Warfield plan (National Association of Owners of Railroad Securities):

Permission to consolidate existing systems when found by the Interstate Commerce Commission to be compatible with the public interest. Favor competition.

Amster plan (Citizens' National Railroad League):

Complete consolidation of all railroad companies into a single national corporation, thus putting an end to competition.

Plumb plan (indorsed by railroad brotherhoods):

Consolidation of all the railroads into a single system and elimination of all competition. The railroads to be owned by the United States and all railroads to be operated as a single system by a corporation composed of railroad employees.

#### PROCEEDINGS IN HOUSE

The report of the House committee, presented by Mr. Esch (House Report No. 456, 66th Cong., 1st sess., on H. R. 10453), states the following with reference to consolidations:

"As to consolidations, the plans presented to your committee differed materially. But two are recommended. One, permissive consolidation, and the other, compulsory consolidation. The pending bill (H. R. 10543) favors permissive consolidations, subject to approval by the Interstate Commerce Commission. The so-called Warfield plan advocates the same policy. The Amster plan favors complete consolidation of all railroad companies into single corporations, resulting in an end to competition. The Senate committee plan (Cummins bill) and the railway executives' plan favor the consolidation of existing lines into a certain number of competitive systems. The Senate plan permits voluntary consolidations if accepted within seven years after approval of the act. Many of the objections we have above urged against Federal incorporation arising out of delays, expenses, and litigation are equally applicable to compulsory consolidations. In our opinion, the interest of the public will be better served where the consolidations are voluntarily entered into, upon approval by the Interstate Commerce Commission, and where such consolidation or merger is in the interest of better service to the public or economy of operation or otherwise of advantage to the convenience or commerce of the people. Under such a plan the problem of weak roads, when taken in connection with the other provisions of the pending bill, will in a large measure be capable of solution.

"Your committee, believing that the creation of regions for incorporation, administrative, and rate-making purposes would not permit of the fullest measure of competition and would make



rate making based on average conditions of carriers within a given region an impossible task, have not deemed it wise to adopt any such plan in the pending bill."

The synopsis of section 407, the House bill section dealing with consolidations appearing in the report, is as follows:

"Section 407 amends the first paragraph of section 5 of the commerce act so as to confer jurisdiction upon the commission to authorize the unification, consolidation, or merger of two or more carriers engaged in transportation of passengers or property, or of the ownership and operation of their properties, or the pooling of their traffic, earnings or facilities, if the commission finds that such unification, consolidation, merger, or pooling will be in the interest of better service to the public or economy in operation, or otherwise to the advantage of the convenience and commerce of the people. The approval by the commission is to be given under such rules and regulations and upon such terms and conditions, including consideration as between the carriers, as the commission may find just and reasonable. The carriers receiving such authority from the commission are relieved from the operation of the antitrust law and other State or Federal restraints, in so far as necessary to enable them to effect the unification, consolidation, merger, or pooling."

There was practically no discussion in the House on the consolidation feature of the bill; the only statement of any consequence being that of Chairman Esch, which embodied merely the matters set out in the report.

#### CONFERENCE REPORTS

The bill (H. R. 10453) having been sent to conference after passage by the Senate of the bill as there amended, the conferees reported the present provisions of the transportation act. The statement of the managers for the House attached to the conference report (House Report 650, 66th Cong., 2d sess., February 18, 1920) contained the following with reference to the consolidation features of the bill:

"The House bill permitted consolidations, mergers, and pooling of earnings or facilities, subject to the approval of the commission, and for the purpose of carrying out any order of the commission approving a consolidation, merger, or pooling, declared that the carriers affected by such order should be relieved from the operation of the antitrust and other restrictive or prohibitory laws. The Senate amendment, in section 9, declared that it is the policy of the United States to require consolidation of all the railroads of the country into not less than 20 nor more than 35 separate systems, and provided (sec. 10) that the Transportation Board should prepare a plan for such consolidation. Voluntary consolidations were provided for within the period of seven years after the passage of the act, but at the end of that period the Transportation Board was given power to compel such consolidations. The Senate receded from the provisions for compulsory consolidation and agreed to the House provisions with respect to pooling, as revised by the conferees. The House agreed to the Senate provisions for vol-

untary consolidations as revised by the conferees in section 407 of the conference report. Under these provisions the commission is authorized to permit the acquisition by one carrier of the control of another by lease or purchase of stock. The commission is directed to prepare a plan of consolidation, preserving existing routes and competition so far as possible. Before adopting such plan the commission is required to give a hearing and notify the governor of each State affected. Consolidations or mergers in harmony with the commission's plan are permitted, subject to the approval of the commission and subject to the requirement that the capital of the consolidated corporation shall not exceed the value of the consolidated properties as determined by the commission. An order of the commission approving a specified consolidation may be carried out notwithstanding any State or Federal restraining or prohibitory law to the contrary."

In Senator Cummins's statement to the Senate on the conference report (p. 3327, Cong. Rec., 66th Cong., 2d sess., Feb. 23, 1920) he said as to consolidations:

"The Senate bill proceeded upon the declared theory that in order to make rate regulation completely successful and absolutely just as between the public and the railway owners, the railway properties of the United States should be divided for ownership and operation into not less than 20 nor more than 35 systems, preserving fully the competition in service now existing and the established channels of trade and commerce. It provided that the Transportation Board should, after hearing, make and publish a plan of consolidation, that for seven years consolidations in harmony with the plan so presented should be voluntary, and that thereafter necessary measures should be taken by the Government to complete the execution of the plan. It further prescribed that in all consolidations the capitalization of the consolidated companies should not exceed the actual value of the railway properties involved in the consolidation.

"In so far as the Senate bill contemplated compulsory consolidations, the Senate conferees have found it necessary to recede, but the real principle embodied in the Senate bill has been preserved. The substitute found in the conference report upon this subject provides that the commission shall, as soon as practicable, adopt and publish a plan for the consolidation of all railways into a limited number of systems, with the same requirements as to competitive service and the observance of existing routes of commerce as were laid down in the Senate bill. With the approval of the commission, guided solely by the public interest, consolidations are to be permitted, but they are to be voluntary and must be consistent with and in furtherance of the plan adopted by the commission. Furthermore, in whatever consolidations may take place, the properties consolidated must be treated as of their true value, and the commission is charged with the duty of determining this value under the valuation act of 1913. While I regret that the House conferees could not be brought to a complete acceptance of the Senate bill upon this subject, I feel that the provisions agreed upon are a tremendous

advance toward the desired end, and will eventually result in such a readjustment of all railroad systems that it will be possible for the Interstate Commerce Commission to establish charges for the service of transportation that will fairly sustain all our railroads without giving any one of them an excessive return on the value of the property rendering the service."

There was no further debate upon this section prior to the adoption of the conference report.

#### REASONS FOR ENACTMENT OF CONSOLIDATION PROVISIONS

The reasons prompting the inclusion in the transportation act of its provisions for consolidations can best be gathered in the first instance from the report of the Senate committee prepared by Senator Cummins, the author of the provisions, and from his speech in the Senate at the time of consideration of the bill, because these statements have been recognized in the later studies and investigations which have been made as correctly setting forth the theory of the legislation and the reasons for its enactment.

#### REPORT OF THE COMMITTEE

The report of the Senate Committee on Interstate Commerce, presented by Senator Cummins November 10, 1919 (Report No. 304, 66th Cong., 1st sess., on S. 3288), after comment upon the provisions of the bill providing for the return of the railroads to their owners and the termination of Government operation, sets forth the following under the heading, "The Policy Established by the Bill for Future Control and Regulation."

(a) If our policy is to be private operation of instrumentalities of transportation, there must be a large and constant inflow of capital, because as commerce increases in volume the facilities of transportation must increase.

Such capital must be drawn from those who have money to invest and must be voluntarily contributed.

If the people who have money will not invest it in transportation enterprises, private ownership and operation under public control must fail.

Therefore, any legislation proposed on the hypothesis of private ownership and operation must tender to the future investor reasonable security for the investment he is asked to make and reasonable assurance of such yearly return upon his money as will induce him to enter the field.

In these respects present system of regulation has failed.

(b) With widely varying conditions of railroads, it is impossible for Interstate Commerce Commission to prescribe schedules of charges for transportation at the same time just to the public and still maintaining the railways which must continue to function if the people of the country are to be provided with adequate transportation service.

In a given competitive area the rates which will furnish one company a grossly excessive income will lead another into bankruptcy.

When the Government assumed control of the railways they were, taken as a whole, earning all they should be permitted to earn, but railways which carried 30 per cent of traffic were earning so little they could not by economy or good management sustain themselves.

(c) These highways of commerce can not be abandoned. Some system must be devised for continuance, betterment, and growth.

(d) Government ownership is one solution. Committee does not favor that.

(e) Only other solution, consolidation.

1. First policy, consolidation into one ownership.

2. Second, consolidation into comparatively few competitive systems.

Disadvantages of first outweigh advantages. Principal advantage of several systems is that competition, not in rates or charges, but in service, will do more to strengthen and make public regulation successful than any other element which can be introduced into business of transportation.

Therefore, the committee, recognizing the necessity for consolidation, determined in favor of gradual unification of railways into not less than 20 nor more than 35 systems; not regional nor zone systems, but systems that will preserve substantially existing channels of commerce and full competition in service. Vital rule of the grouping to be that they are to be so divided that operating incomes of several consolidated companies will bear substantially the same relation to the value of their respective properties held for and used in transportation.

Then follows a discussion of some of the features of the bill for working out the plan. This plan was set out in quite full detail in the Senate bill, but many of the details were eliminated before final passage. However, the general principles of the legislation were not altered.

#### TEMPORARY ADJUSTMENT—RECAPTURE

Full advantages of consolidation can not be obtained for 10 or 12 years. Railways must be returned to owners at once. Necessary to provide a plan for immediate relief.

This plan to prescribe basis of return upon value of railway property, in order to establish credit for railways by encouraging investment.

Requiring carriers which under any given body of rates will earn more than fair return to pay excess to Government, and in so using excess that transportation facilities of credit can be furnished weaker carriers and thus help maintain general system of transportation.

To bring about these results rate districts to be established and rates to be adjusted so that carriers in district shall earn aggregate net annual income equal to 5½ per cent on aggregate value of property used in service of transportation.

Excess of fixed income received by any carrier to be paid to Transportation Board for uses described in act.

The foregoing is the substance of the recapture features of the act as finally adopted.

## SENATOR CUMMINS'S STATEMENT IN SENATE

In his speech in the Senate on December 2 and 4, 1919, Senator Cummins elaborated upon the report of the committee. Following is a brief summary of the arguments presented by him in so far as the discussion referred to the consolidation features of the bill.

That private operation of railroads can not be continued as a permanent policy unless there is a radical change in the method of regulation. It is impossible for the Interstate Commerce Commission to establish a body of rates in the United States that will enable the railways to maintain themselves, because it is impossible to establish a system of rates that will sustain the weaker roads without giving the stronger roads an excessive income. He outlined the average earnings of certain roads for a test period of the three years preceding July 1, 1917, taking the investment account of each road as kept under the supervision of the commission as the basis of figuring return. The average net operating income of some of the roads on this basis was as follows:

	Per cent
New York Central.....	6.09
Pennsylvania.....	6.26
Delaware, Lackawanna & Western.....	5.06
Erie.....	7.54
Baltimore & Ohio.....	3.63
Chicago, Burlington & Quincy.....	4.67
Chicago & Great Western.....	7.02
Union Pacific.....	1.37
Southern Pacific.....	6.72
Northern Pacific.....	4.99
Great Northern.....	6.27
Chicago, Milwaukee & St. Paul.....	6.70
	4.71

A number of other figures are given on page 126, Congressional Record, Senate, December 4, 1919.

He then called attention to the fact that in their respective territories these roads were competitive and must carry traffic at the same rates; that the railroads could not live without giving to the stronger of them rates which would yield an excessive, indefensible income, and cited the Chicago & Great Western and the Erie as roads which could not live upon their income.

In the course of debate Senator Cummins admitted that perhaps the investment accounts were not accurate, and in many cases higher than actual value, but used them as a basis of comparison, because whatever basis was used the same disparity as to return would appear.

He stated:

"The underlying purpose of this bill is to bring about a reorganization of our railroads, so that upon a given body of rates in competitive territory, the earnings of the several systems of railroads would be substantially the same, measuring those returns by the values of the properties which are involved."

He stated that there were from 75,000 to 100,000 miles of main-line track railroads in the United States which could not be maintained upon the rates which would maintain the more than 160,000 remaining miles, and that these must be maintained.

He then said:

"We are agreed that we can not raise the rates upon the weaker properties so that they will be self-sustaining, because that would give to the stronger properties, which move 70 per cent of the business of the United States, an income so excessive that it would not be tolerated for a single month. Therefore that solution must be discarded. We can not give to the stronger properties the rates which would return for them no more than a fair interest upon the value of their property and that alone, because that means death to the weaker properties which must compete with them in traffic, and, of course, upon the same terms, so far as rates are concerned. So we must inquire further. We must find some other way in which we can maintain the general transportation system of the United States and promote the welfare of our people. We must find some other way in which to do it. How can we accomplish it?"

"You may inquire as you will, you may study it deeply as you may, but you will finally reach the conclusion that it can only be done through consolidation."

He then discussed the plan for consolidation into one system, and some of its advantages, but favored the plan of the committee for consolidation into several systems because it would permit competition in service.

"Rivalry and competition in service begin with a desire to please people who ride on trains or ship property; means attention, courtesy, concern for the public mind, prompt furnishing of cars, speedy movement of cars, effort made in every quarter to do the work at hand in a most efficient manner."

The plan of the committee was one of consolidation into not less than 20 nor more than 35 systems in order to accomplish—

First, the possibility of imposing a given body of rates upon the carriers, with the outcome that each of the systems would earn substantially the same net return as compared with the value of the property employed in the service; and

Second, to give this business the same motive for efficiency and excellence which we observe in other great ventures.

Then followed a discussion with reference to the recapture features of the bill, necessitated because the consolidation features might not be carried into effect for 10 or 12 years, and in the meantime it would be necessary to have some plan of equalization to care for the weaker roads without giving an excessive income to the stronger ones. He expressed the substance of it in this way (Congressional Record, p. 137, December 4, 1919):

"For the permanent system, you will remember, I have proposed the only thing that can be done, and that is consolidation; but for the transitory period, what we have done is to say to these larger roads: 'We are making rates which are too high so far as you are concerned if you alone were to be considered. We will allow you to collect these rates, but in so far as they exceed an income of 6 per cent upon the value of your property, you are a trustee for the public, and must respond to your trusteeship and pay over the excess to the Government of the United States



for such disposition as it may see fit to make of the fund.' It is not true that these revenues, simply because they come into the hands of the larger railroad companies under a system of rates which have been established by the commission, are the absolute property of these companies."

It is clear from the committee report and the remarks of Senator Cummins in support of the bill (and this is borne out by an examination of the hearings held before the committees in both Houses of Congress prior to the passage of the transportation act), that in the minds of members of Congress supporting consolidation legislation, the necessity for it arose from the following facts:

1. That if transportation was to be carried on by private operation, carriers must earn such a return as to encourage investment in transportation enterprises.

2. That transportation facilities for the country must be maintained, and that adequate facilities necessarily included carriers, the earnings of which were not sufficient to enable them to live.

3. That carriers in a given competitive territory must of necessity charge the same rates; and

(a) Rates which would produce an adequate return for strong roads would not maintain the weak ones, while

(b) If rates in the territory were raised to a point where an adequate return would be produced for the weak roads, an excessive return would be created for those which were strong.

The remedy proposed was a union of strong and weak roads into systems, so that given rates would produce an adequate average return for an entire system; and, as a temporary expedient, pending the completion of the consolidation plan, a fixed percentage of return would be prescribed, and carriers earning in excess of that percentage be required to turn such excess over to the Government, to be used by it in support of the weak roads.

The reasons for the enactment of the consolidation provisions, as above set forth were most concisely summarized in an article by Samuel W. Moore, appearing in the Virginia Law Review of June 1929, as follows:

"The program for railroad consolidation offered a simple and sure method for equalizing the fortunes of the strong and the weak. Certain strong lines and certain weak lines would be combined into one system. The higher earning power of the prosperous roads in the system would be diluted by the inclusion of the weaker lines. Financial strength would be offset by financial weakness. A fair average would result. All systems would be created in the same manner. Thereafter there would be no strong roads with excessive earnings, and no weak roads struggling to make both ends meet. All systems would be relatively equal in value and earning power. An important feature of the plan was that all short lines, and particularly the weak short lines, would be provided for, and all would find a haven of absorption in some of the new systems. So reasoned Senator Cummins and those of his school of thought."

#### ORIGINAL INTENTION AS TO MAINTENANCE OF COMPETITION AND CLASSES OF ROADS TO BE CONSOLIDATED

In view of the fact that the transportation act specifically exempts from the provisions of the antitrust laws carriers taking part in consolidations pursuant to the provisions of the act, and because of an apparent widespread belief that it was the intention of Congress to depart entirely from the policy laid down in the Sherman Act and Clayton Act, it is extremely important to ascertain the views of the proponents of the legislation, and as well of the interested persons who appeared before the committees of Congress and supported consolidation legislation.

#### REPORT OF SENATE COMMITTEE

"The superior efficiency of several systems need not be enumerated at length, but there is one consideration to which attention should be called: Competition, not in rates or charges but in service, will do more to strengthen and make public regulation successful than any other element which can be introduced into the business of transportation. Honorable rivalry among men is the most powerful stimulus known to human effort. For this reason, largely, the committee, recognizing the necessity for consolidation, determined in favor of the gradual unification of the railways into not less than 20 nor more than 35 systems; not regional or zone systems but systems that will preserve substantially existing channels of commerce and full competition in service."

The remarks of Senator Cummins have already been referred to, and his statements conforming to the report of the committee will be found at various points in his speech before the Senate.

#### SPEECH OF SENATOR KELLOGG

Senator Kellogg, a member of the committee, spoke at length in the Senate in support of the bill. (Congressional Record, December 6, 1919, pp. 216 et seq.) Following are excerpts from his discussion in so far as it related to the maintenance of competition:

"But what has made our railroad systems great and developed the vast resources of this country? It has been individual enterprise and competition. Competition in every walk of life has been the mainspring of human progress, and while I realize perfectly that there can not be great competition in rates without discrimination, and that rates must be the same to all, yet there is great competition in service, in enterprise, in operation, in inventive genius, in labor-saving and life-saving improvements, and in betterment of service."

\* \* \* \* \*

"There seems to be some misunderstanding by some Senators. This bill does not propose to create regional railroads at all. It proposes to take all of the principal lines of competitive trans-

portation and maintain them as they are, taking in a vast number of smaller lines which may be said to constitute feeders, many of which are weak lines, such as the Minneapolis & St. Louis, the Chicago & Great Western, and many others throughout the country that I could name. The committee felt as though there were some 20 or 35 of these principal competitive lines, though I doubt if there are 35. But this consolidation should not be permitted to the extent of depriving the country generally of competition in the service and not permitting the construction of lines of road to meet the growing conditions of the country.

\* \* \* \* \*

"Consolidation should only be permitted along the lines of natural competitive transportation. Let me illustrate what the bill proposes to do. Take the district west of the Mississippi River or west of Chicago, running from Chicago to St. Louis, down the Mississippi River, and all the country west thereof. There are 10 principal lines of railroad—the Great Northern, Northern Pacific, Burlington, Union Pacific, Northwestern, Southern Pacific, Santa Fe, the Missouri Pacific—known as the Gould System—the Chicago, Milwaukee & St. Paul, and the Minneapolis, St. Paul & Sault Ste. Marie.

"I think that takes in all of the principal lines of competitive transportation. There are many other small roads, some of them quite large systems, but as to every one of them, all of the territory which those systems occupy is adequately served and competition furnished by the larger systems."

"It must be remembered that there is a limit as to size beyond which you can not have efficient management, and I would not permit this limit to be reached or the principal competitive lines to be consolidated beyond it."

In discussing the attitude of the railroads as to enforced consolidations the following colloquy took place between Senators Kellogg and Cummins:

Mr. KELLOGG. \* \* \* I was of the impression that generally speaking, railroad executives believed that the companies should be consolidated into the present principal competitive lines. They are very much opposed to consolidating the big lines of road into one company.

Mr. CUMMINS. I am of their opinion in that regard. I think the consolidation must take place along the lines already established, and the bill expressly provides for that.

Mr. KELLOGG. It does.

Mr. CUMMINS. For instance, if we were consolidating the roads between New York and Chicago, no one would suggest that they should be consolidated into less than five systems. Those we have had before us have always indicated that that plan, as a general rule, ought to be followed; that will give competition to every community that has it now; and that will recognize the great trunk lines which now exist. That will be true of the West, as the Senator from Minnesota has said, just as it is true of the East.

Mr. KELLOGG. I did not wish to be understood as objecting to that at all. In fact, I think the consolidations must take place along those lines and in the principal companies which are now competing for the traffic of the country, because the country has developed with the construction of those natural competitive lines of transportation, not only competitive between great manufacturing and agricultural and producing districts, so that Chicago, St. Louis, San Francisco, Minneapolis, St. Paul, and New York are all competing throughout the United States for the business of the country. These natural lines of competitive transportation have developed with the country, and it is and must be the object of the bill to maintain that competitive transportation.

Attached to Senator Kellogg's speech is an appendix, giving full statistics as to railroad earnings during 1917 and 1918 and the first nine months of 1919.

#### SPEECH OF SENATOR CURTIS

Senator CURTIS said in debate on December 6, 1919 (p. 248):

"In the past it has been the policy of the Government to refuse to permit railroads to enter into combinations, but the Senate bill changes this policy, and instead of making combinations illegal, it requires the railroads to consolidate into not less than 20 or more than 35 separate and distinct systems.

"I have grave doubts about the provisions of the pending bill which provide for the consolidation of railroads. I fear they will prevent competition. The legislation enacted should guarantee full and free competition. The people have freely voted bonds to assist in the building of railroads for the purpose of having competing lines, and the principle of competition should be maintained so that natural laws of trade may not be interfered with.

"I do not believe in pooling agreements, because such agreements can mean but one thing, and that is the suspension of competition. There is no denying the fact that just as far as pooling is permitted, just that far competition is avoided. The question of pooling has been before the courts a number of times, and it has met with universal condemnation."

#### HEARINGS PRIOR TO 1920

Extensive hearings were held by the Interstate Commerce Committee of the Senate and the Committee on Interstate and Foreign Commerce of the House during 1919, at which the entire railway situation was fully discussed by representatives of the carriers, of the Interstate Commerce Commission, of employees, and by other interested persons. The testimony given before both committees was in the main by the same persons and of the same character. Reference is made to testimony given before the Interstate Commerce Committee of the Senate at the hearings on the Extension of Time for Relinquishment by the Government of Railroads to



Corporate Ownership and Control, held from January 3 to February 21, 1919. The quotations following relate to the matter of preservation of competition in case of consolidations.

Mr. ALFRED P. THOM, general counsel Association of Railway Executives.

The recommendation of the Association of Railway Executives as to consolidations was as follows (p. 480):

"Existing laws should be so modified as to authorize upon approval by the secretary of transportation as being in the public interest:

"(a) Acquisition by a carrier engaged in interstate commerce of the properties, stocks, or securities of another or other carriers; or consolidations and mergers of such carriers."

Upon questioning by Senator Kellogg, Mr. Thom said:

Senator KELLOGG (p. 525). Now, a few other questions, and one of them is this: You advocate Federal incorporation and permission to make some consolidations. Would you permit all competing systems of the country to consolidate?

Mr. THOM. I would not. I would have that regulated in a very intelligent way, and in a way consistent with a comprehensive policy, by public authority. \* \* \*

Senator KELLOGG (p. 527). Then, Mr. Thom, as I understand, you would not do away with the competition in service, at least between the principal competing roads of the country?

Mr. THOM. No; our proposal is to retain that.

Senator KELLOGG. Now, there has been practically no competition for many years so far as rates are concerned; and there can not be such competition, because between competing points the rates on all lines must be the same?

Mr. THOM. Yes.

Senator KELLOGG. But is there not, or has there not been heretofore under private ownership a great degree of competition as to service which has been of benefit to the public?

Mr. THOM. We have thought so. Of course in a time when the transportation facilities of the country are not equal to the business and everybody has as much as they want and more, you do not find the stimulus of competition to the same extent; but the normal condition of the country is where transportation companies have to seek the business, and the method they have of seeking it is to try to give the best service.

Senator KELLOGG. And that competition extends down to the local ticket and freight agent, who looks after the business of his customer?

Mr. THOM. Undoubtedly.

Senator KELLOGG. Expediting shipments?

Mr. THOM. Yes.

Senator KELLOGG. Furnishing cars promptly, giving better trains and better train service, both passenger and freight?

Mr. THOM. And even to the question of manners.

Senator KELLOGG. Even to the question of what?

Mr. THOM. Manners.

Senator CUMMINS. Very important, too.

Senator KELLOGG. That might be applied now, sometimes, with advantage. But all that competition has been of very great benefit to the public; has it not?

Mr. THOM. We think so.

Senator KELLOGG. Yes. And now, to keep that competition, the principal lines of the country, like the New York Central and the Pennsylvania and the Union Pacific and the Northern Pacific and the Great Northern and the Southern Pacific must be maintained as separate competing organizations?

Mr. THOM. That is what seems to us.

Senator KELLOGG. Your idea is that if consolidations were permitted they should be judged in each case with the view of keeping the main lines of transportation competing?

Mr. THOM. Yes.

Mr. THOMAS D. CUYLER, representing Association of Railway Executives (p. 320).

Senator KELLOGG. Do you not believe that competition as to service between the great competing routes of this country is a valuable thing to the people of this country?

Mr. CUYLER. Most assuredly.

Senator KELLOGG. And should be maintained?

Mr. CUYLER. Absolutely.

\* \* \* \* \*

The CHAIRMAN. If the Senator will excuse me, I want to ask you now about one of the chief things that occurs to me. I want you to explain to me how there is to be any incentive for competition in service when we propose to eliminate and practically have eliminated competition in rates? What incentive have you for competition in service, other than a philanthropic feeling, unless you get paid for it?

Mr. CUYLER. We have this incentive: That the road that gives the best competitive service will get the business; and therefore each road is anxious to do its very best in order to attract that business.

Mr. JULIUS KRUTTSCHNITT, president Southern Pacific.

Mr. Julius Kruttschnitt, president and chairman of the executive committee of the Southern Pacific, testifying on January 22, 1919, after stating in answer to a question of Senator Kellogg (p. 587) that with a situation such as that existing between Chicago and St. Paul, with the Chicago Great Western, Milwaukee, Burlington and Northwestern competing, and the latter three earning a fair return with rates which would not produce a fair return for the Chicago Great Western, in his opinion such a situation could be met by a regulated pool, and stating:

"Senator KELLOGG. Do you think the competition in service between the lines of railroad in this country, between competitive points, should be preserved?

Mr. KRUTTSCHNITT. Unquestionably we do. That is the keynote or keystone of our plan."

After a further discussion of this pooling plan (p. 596 et seq.), Mr. Kruttschnitt said in answer to Senator Cummins's question following:

"Senator CUMMINS. I do not mean that the physical facilities should be diminished, but, taking the one instance of consolidation in operation between Chicago and St. Paul, every object that you suggest could be accomplished through a pool, could be accomplished by a common ownership of the four roads.

"Mr. KRUTTSCHNITT. One very important thing—and perhaps the most important—would not be accomplished by the plan you suggest. A common ownership would absolutely eliminate competition; there would be no object whatsoever, if one road owned the four lines, or if the United States Government owned the four lines, to give any improved service whatsoever. Without wanting to criticize in a hostile manner, I think the consolidation of train service during Government control, which was done for war necessities, has deprived the public of a great many accommodations which were highly appreciated and which it wants. I saw this morning in the paper that the Director General in an address says that the passenger men must get together and arrange to give the public back these accommodations again, of which they were deprived during the war.

Under Government ownership, or common ownership, the incentive to compete would be lost. In answer to Senator Kellogg's question, I stated, taking the hypothetical case that he put, that if the Great Western were allotted a certain percentage of this traffic between Chicago and St. Paul, say, on the 1st of January, 1919, it would immediately, looking to its future welfare, begin to plan how much it could increase its share of the traffic between those points, because the Interstate Commerce Commission's allocation of the earnings would naturally be proportionate to the traffic that each road could control, and it would begin to endeavor to increase its traffic, so that in one year or two years it could go to the commission and say, "Your award of our percentage of the total traffic might have been all right on January 1, 1919, but on January 1, 1921, it is all wrong. See how much traffic we are now carrying," and if they were controlling a larger proportion of the traffic, the commission would necessarily have to change their percentage and to raise it. There comes in the spur of competition, which would be totally absent under Government ownership or common ownership.

Mr. DANIEL WILLARD, president Baltimore & Ohio (p. 1211):

"In my written statement I have suggested that Congress should affirmatively authorize the railroads to combine their properties and operations, subject to Government approval, as and when shown to be in the public interest. Now, that idea, if carried out, will go very largely toward taking care of the weak roads referred to in your question, Mr. Chairman. It has been suggested by some—in fact, all seem to be agreed—that there are now too many railroad companies; that it would be better, in the public interest, if there were fewer companies; and it has

been suggested by some that that be accomplished by dividing the United States into geographical sections, 6 or 12, as the case may be. I am opposed to that plan. It seems to me that plan does too much violence to existing conditions. I think there is a better plan that would accomplish the same end, and the plan I have in mind would work out automatically if Congress should authorize the railroads to combine, subject to governmental regulation, when shown to be in the public interest.

Senator KELLOGG. You mean subject to governmental approval?

Mr. WILLARD. Governmental approval; yes. Now, if that plan were followed, I am of the opinion that it would come about, in four or five years, that instead of having 162 railroads, each earning more than \$1,000,000 per annum, as is the case now, there would be 20 or 25, or perhaps 30, companies in the whole United States, preserving, in effect, all the large companies that there are to-day. That would not destroy any competition, generally speaking, that exists to-day. It would preserve the competition in service that we have to-day, and the groups or the regions which would grow out of that policy would be along the lines of existing traffic movement. The railroads have been built either to move existing traffic or to develop prospective traffic, and it would not do any violence to that idea.

"Now, if the railroads were permitted to combine in that way I am quite certain that the stronger roads would be willing, in deference to or in harmony with such an established public policy, to take in the weaker complementary lines—not the competitive lines, but the complementary lines—on terms and conditions that would be approved by governmental agency. It has been asked, Why would a rich road want to acquire a road that did not pay? It is very simple. If the rich road were earning excess profits, as it might be, then a portion of those surplus earnings, under the plan I am discussing, would be accruing to the Government. It would make no difference, financially, to the larger road if that same portion of excess earnings were used to carry a weaker road, if a weaker road were acquired.

"It has also been asked, Why would the weaker road want to sell? Because if Congress will provide a definite rule for rate making, then it will be possible for every railroad, figuratively speaking, to sit down and figure out about how much it is worth, as a going proposition, with the established basis of fixing rates; and knowing that was the fixed policy, I have no doubt that the so-called weaker roads would be glad to be combined with the stronger roads on conditions that would be approved by the Government. Now, if such a policy resulted in eliminating, say, 100 or 125 of the weaker companies, that of itself, together with the use of the surplus earnings, I think, would go a long way, Mr. Chairman, toward answering your question."

(The question of the chairman was, I would like to ask you in reference to this plan what suggestion you have to make for taking care of those roads within a given territory which are not earning sufficient to take care of their stocks and bonds?)

Mr. HOWARD ELLIOT, president Northern Pacific Railway Co. (p. 1255):

"The present great systems of railroads have been built up in the last 40, 50, even 70 years, and they have developed along certain lines and are now a part of the industrial and financial structure of the Nation. They are coordinated to themselves, to the communities they serve, to their connections and competitors as to tracks, terminals, equipment, and other physical facilities, and their financial structure is very complicated; and they should be allowed to preserve their identity and integrity physically and financially.

"Small, unsuccessful, and so-called weak lines that are dependent upon their connections with the great trunk lines must gradually be absorbed and become a part of some of the larger systems, just as has been done in the past.

"Regulated competition, especially as to service, should be continued between the great systems. Without reasonable competition, development, and the introduction of the most improved and advanced methods for giving service to the public will be checked. Without attempting to say at this time how many great systems will serve the country best, a few examples may be given.

"It will be better for the general growth of the territory between Chicago and the Atlantic seaboard if the New York Central is maintained in its entirety, the Pennsylvania system, and the Baltimore & Ohio; in the West, the Burlington system, the Union Pacific, and North Western; in the Northwest the Northern Pacific and Great Northern; in the South, the Southern Railroad, the Atlantic Coast Line, etc.; in the Southwest and Pacific coast, the Santa Fe and Southern Pacific and other examples could be given. The continuation of these great systems will develop a greater spirit of effort on the part of officers and employees than if all competition were eliminated, and this spirit means much for the future development of the railroads and greater satisfaction to the public."

Mr. S. H. COWAN, representing the American National Live Stock Association, and National Live Stock Shippers' League (p. 1299):

"All that seems necessary to say about this subject is that only such combination of railroads should be permitted as will not unduly stifle competition to get the business. The best assurance the public has for reasonable service is the desire of the railroad to get the business. Destroy that and public service of an efficient sort is gone and the shipper helpless. Remember that the service rendered the individual shipper consists in doing so many things that it can not be looked after in detail except by the persons doing the work. Responsibility for failure is difficult often to locate. If, therefore, the service is to be performed by employees of a company consolidated with its competitors, so that each employee would just as soon see the traffic go to the other road, indeed often prefer that it would to avoid work, we would have bad service. When a railroad ceases to promote enterprise on its line, as it would where securing the traffic was of no direct benefit, the wheels of progress are slow.

"The economies by consolidation do not amount to much. Wages, cost of supplies, and material, fuel, construction, depreciation, interest, taxes, loss and damage, etc.; in fact, nearly all operating expenses except a part of general supervision and general expense would not be reduced by consolidation.

"If you get under the hide in this propaganda about wasteful competition, you will find the bankers controlling the railroads started it, and it was taken up by a lot of officials and others who commend themselves to the public by putting forth, as their very own, these words of wisdom about wasteful competition being eliminated, etc., and prove their sagacity by referring to what some great economist among captains of industry has said. So it is with editors.

"It is simply a new tack to get rid of the antitrust laws that the same people have been endeavoring to do in various ways for years.

"Evolution and revolution take no backward steps. At this time when prices and profits are so outrageous as to be often criminal, the repeal or modification of laws intended to promote competition, thereby enabling these big institutions to combine to increase cost and lessen what you get for what you pay but paves the way and invites socialism. Those who advocate doing the one unwittingly open the door to invite the other.

"Consolidation of railroads into systems to better public service and the upbuilding of the transportation system in a given territory, so the strong can care for the weak, so to speak, and that so balances the business and income that, although there is a falling off in traffic or calamity in one locality where the system lines operate, there is compensation by prosperous conditions on other parts of the system, thus enabling the system to keep up the public service and prosper where shorter parts or branches if independent could not do so. If this sort of consolidation does to some extent limit competition, it is overbalanced by the general benefits. Such consolidations should be encouraged.

"We must remember there is no competition in rates and can not be—it is the service performed—the invitation of competitors to get business for the rates that we must retain and stimulate."

Those presenting contrary views on the subject of maintaining competition were in general witnesses who favored Government operation of the carriers, or one unified system, neither of which policies was carried out in the transportation act.

#### CONCLUSION

From an examination of the record in Congress and from reading of the testimony given in the hearings, it is safe to draw the conclusion that, however broad the language of the act removing the restrictions of the antitrust laws may be, it was not the purpose of Congress to radically change the policy of the Government; that there was no intention to encourage the consolidation of the larger systems; that the idea of consolidation was to gather in the weaker lines which were not self-sustaining, and that the prohibitions im-



posed by the antitrust laws were removed from approved consolidations because the absorption of weak or short lines might in some instances involve violations of those laws, but that all the provisions as to consolidations, unifications, acquisitions of control or mergers were adopted with the understanding on the part of all concerned that competition in transportation service would be maintained by the preservation of the principal lines of the country as separate competing organizations.

\* \* \* \* \*

It has seemed necessary to set out so much in detail the views expressed at and about the time of the passage of the transportation act, because, while a number of amendatory bills have been introduced and hearings have been held at practically every session of Congress since 1924, arguments have been made in hearings pro and con on almost every feature of consolidation, the matter has been referred to in messages of the Presidents, members of the Interstate Commerce Commission have expressed their views, and some committee reports have been made in connection with the proposed legislation, none of the amendatory legislation has been voted on in Congress and Congress has voiced no expression of policy since 1920.

It is important to keep this in mind, in order that the opinions of individuals or organizations may not be confused with legislative expression.

#### ACTION BY CONGRESS AND INTERSTATE COMMERCE COMMISSION SINCE TRANSPORTATION ACT

##### RIPLEY PLAN OF CONSOLIDATIONS AND PLANS OF COMMISSION

As previously noted, following the passage of the transportation act, the Interstate Commerce Commission ordered an investigation of the subject of railroad consolidations, and engaged Prof. William Z. Ripley of Harvard University to prepare and present a tentative plan of consolidations. He was engaged in this work about a year, and then presented, in 1921, a plan proposing 21 systems. The Ripley report appears in 63 Interstate Commerce Commission Reports, commencing at page 465.

This report is comprehensive and too lengthy to set forth here, but inasmuch as it furnished the guide for the commission in its tentative plan, it may be well to set forth some of the conclusions of Professor Ripley which guided him in his work.

He sets out in substance what has heretofore been stated as to the need for the legislation and the method devised for the purpose of preserving the transportation system of the United States by an equalization of earning power, or, as he puts it, "to reduce carrier corporations to a common denominator of earning power in terms of valuation." He also assumes that in any plan of consolidation there should be consonance between mergers to be effected and the public welfare, rather than mere immediate profit to those concerned.

##### REQUIREMENTS OF STATUTE

He states the three requirements to be observed, under the statute:

1. Preservation of competition in service.
2. Nondisturbance of existing routes and channels of commerce.

3. Financial aspects of mergers to be effected.

He then continues:

"Without having regard to the fundamental principle involved, both in consolidation and the new statutory rule of rate making (by groups), it might appear that these several requirements were stated in the order of their importance; in other words, that the element of financial strength was less significant than the preservation of competition and of the existing traffic routes. But having due regard to the matter in its larger practical aspects, it is evident that any plan adopted will not only be a mere paper plan, ineffectual and futile, but that it will fail to conform to the spirit of the act, unless the financial requirements be given equal weight with those of operation and traffic. For the plan will never be put into effect unless a financial motive for consolidation be afforded; and unless it is put into effect, a positive bar to the attainment of uniform reasonable rates, under which all the carriers alike may thrive, will continue to exist, if the underlying principle of the legislation is in reality sound."

We here find the first suggestion, repeated many times during the following nine years, that the matter of preservation of competition, if it must not give way to other elements in consolidations, shall at least be given no greater weight than, for instance, the financial requirements, as suggested by Professor Ripley.

##### APPROACH TO PROBLEM

Assuming the three requirements above noted to be of equal importance, he notes that there are two methods of approaching the problem:

1. To ascertain the relative financial standing of the corporations, and thereafter check up the alliances thus indicated, by applying the test of operating efficiency and satisfaction of the traffic needs of the territories concerned.
2. To first seek the natural alignment of the properties as operating and traffic units, before inquiry as to whether such alignment contains an effective invitation to merger, based upon considerations of earning power and financial stability.

In the preparation of his plan he adopts the latter method.

For the purpose of comparisons of return he takes the property investment as of December 31, 1917, and the average net earnings for the 3-year period preceding, but warns that statistics of past performance can only be a guide, and that only actual operation can give a true test of any plan.

##### METHOD OF GROUPING

Discussing the question as to whether the statute calls for systems of substantially equal mileage or enjoying the same volume of gross earnings or net income, or whether it shall be assumed that size is of secondary importance, he decides that it is more important to create self-sustaining systems as to earnings derived from as large a proportion as possible of the area of the several great subdivisions of the country, rather than to attempt to put these properties together in such an exact way that they shall all have approximately

equal mileage, or equal gross or net earnings within each group. He says: "Neither mileage nor volume of business is the real test of ability to exist under the statute."

As to the size of mergers, whether they shall be continental in range or conforming to territorial divisions of the country, he states his belief that in view of the importance of maintaining correspondence between the scope of the proposed railway systems and the long-standing rate-making areas and statistical divisions which have commended themselves on the basis of long experience, the country should be divided for the purposes of consolidation primarily into the subdivisions of trunk-line territory, southeastern territory, and western territory, with subdistricts, such as New England and Chesapeake Bay or Hampton Roads territory and a sector between St. Louis-Kansas City and the Gulf, set off by themselves.

He also calls attention to the fact that the purpose of the law being to fix reasonable rates, not for individual railroads but for entire groups, it is essential that the grouping adopted for this purpose conform to that adopted in effecting the consolidations, in order to avoid confusion in the administration of the law.

#### WEAK ROAD PROBLEM

With reference to the weak-road problem he states that the distinction between weak and strong roads is at present highly uncertain, and that it will require a period of experience under the new rates and new divisions of rates, as well as under the slowly readjusted commercial and industrial conditions after the war, in order to establish the relative earning power and credit of each. In this connection he says:

"A period of trial is often necessary, both to reveal elements of strength and of weakness. Substantial equilibrium seems unlikely to be attained for a considerable period of time. Yet in the meanwhile, tentative plans must be set-up, in preparation for the application of the final test of relative financial strength as soon as the available data make this possible."

He calls attention to the fact that it is necessary in a plan to sometimes put together a number of weak roads, because there are no strong roads in the territory under consideration with which they may be consolidated, but concludes that "necessarily the first step must be to provide for proper grouping in order to promote the best operating and traffic results. The responsibility for the subsequent financial success of the undertakings must then rest upon the exercise of the new rate making power conferred upon the Interstate Commerce Commission by this act."

He notes another difficulty in effecting combinations of weak and strong roads, arising from the fact that weak roads have had a tendency to link up in series and form through routes extending sometimes clear across the country; taking, for instance, the Lake Erie & Western from the east, the Minneapolis & St. Louis from the north, and the Chicago, Peoria & St. Louis from the south, meeting at Peoria, and these roads together with the Wabash, the Chicago Great Western, the Clover Leaf, and the Nickel Plate tending to exchange more freely with one another than with the strong lines. Under the mandate of the statute to maintain existing routes and

channels of trade, he finds it necessary to consolidate a number of equally substandard roads, and says:

"Conformity with the other mandate of the statute by seeking to ally strong and weak properties to a like degree, thus threatens to upset the traffic relationships which have become customarily established by the very force of circumstances. It is because of the clash between these at times discordant requirements that the emergent result is so often a piebald compromise."

#### CAPITALIZATION, TERMINALS, TENTATIVE PLAN

He also assumes that for a number of roads a substantial readjustment of capitalization must occur as a prerequisite for consolidation, because of the requirement of paragraph 6b of section 5 providing that the securities of the corporation taking over the consolidated properties shall not exceed the value of the consolidated properties.

He finally assumes as vital to the success of the plan that proper provision can be made for the operation of terminals at great centers, but makes no recommendations as to terminals in his tentative plan.

With these general observations he proceeds with his plan. While his plan was only tentative and was not followed in its entirety by the commission in its tentative plan, it seems advisable to set forth the foregoing observations as throwing light upon the feasibility of adopting a general comprehensive plan of consolidation, and as affording some basis for consideration of the question as to whether such a plan will effect the purposes intended by Congress.

It will be particularly noted that this tentative plan (and this is true of the plan prepared by the commission following the filing of his report) makes no provision for the large majority of short lines, their disposition being left to later adjustment and assignment.

(See further under head "Proposed Consolidations—New four-system plan," p. 180, *infra*).

#### PLANS OF COMMISSION

The tentative plan of the commission, adopted August 3, 1921, and providing for 19 systems, appears in 63 Interstate Commerce Commission Reports, commencing at page 455.

Hearings on the tentative plan of the commission were begun in 1922 and continued until 1925.

On December 9, 1929, the commission published its comprehensive plan of consolidation, providing for 21 systems. (159 I. C. C. 522)

A discussion of this plan and of the views of the several members of the commission will follow at a later point.

#### CLAIMED DEFECTS IN TRANSPORTATION ACT

It will be kept in mind that the transportation act of 1920 made no provision for consolidations until the promulgation of the final plan of the commission, it being assumed apparently that until the

publication of such plan the commission could not determine whether any given proposed consolidation would conform to the general scheme which would finally be adopted.

In its annual report for 1921, the commission recommended that paragraphs 4 to 8 of section 5 of the act be amended or supplemented so as clearly to provide whether, and if so how, voluntary consolidations of carriers might be effected pending ultimate adoption by the commission of a complete plan of consolidation (Annual Report I. C. C. 1921, p. 58.) This request was repeated in substance in the reports for 1922, 1923, and 1924.

From time to time witnesses appearing before the committees of Congress have pointed out what they claimed to be defects in the consolidation provisions of the transportation act. As throwing light upon the several bills to which reference will be made, these suggestions as to defects are now set out.

(See footnotes for references.)

1. Transportation act directs Interstate Commerce Commission to prepare comprehensive plan for railroad consolidation, but thus far commission has found it impracticable to prepare such a plan.<sup>1</sup> Commission doubts utility or wisdom of formulation of complete plan.<sup>2 11</sup> Railroads believe impracticable.<sup>10</sup>

2. As interpreted by the commission, law does not confer upon it authority to approve consolidations prior to completion and publication of final plan.<sup>3</sup> Distinction between acquisitions of control which involve and those which do not involve consolidations into different systems only encourage and promote forms of unification which are often less simple and desirable than technical consolidations but accomplish the same practical purpose.<sup>2 4</sup> At present time have acquisition of control under paragraph 2, section 5, without responsibility for operation. One carrier may purchase stock, or majority of stock, of another and in fact have control, but no responsibility for that control.<sup>5</sup> Under paragraph 2 of section 5, strong line is permitted to procure control of other strong lines without any obligation to take the weak or consider how such mergers will affect the weak.<sup>6</sup>

3. Commission should be authorized to adopt alternative plans.<sup>3</sup>

4. Law apparently requires that groupings are to be made by the sole method of an actual merging of the different properties into single property under single corporate ownership, whereas in some cases desired results could be more easily attained by using such devices as leases, stock control, etc.<sup>3 4</sup>

5. Law requires that every railroad should be included in some consolidated system, whereas hearings have made it clear that in

<sup>1</sup> Memo Chamber of Commerce of the United States, dated Dec. 30, 1926, Hearings, S. 4892, p. 46.

<sup>2</sup> Joseph B. Eastman, chairman, Interstate Commerce Commission, Hearings, S. 1870, p. 40 et seq., Jan. 22, 1926.

<sup>3</sup> John E. Oldham, investment banker, Hearings, S. 2224, p. 33 et seq., May 21, 1924.

<sup>4</sup> Henry C. Hall, Interstate Commerce Commissioner, Hearings, H. R. 5641, p. 4 et seq., Dec. 19, 1927.

<sup>5</sup> R. C. Fulbright, chairman legislative committee, National Industrial Traffic League, Hearings, S. 4892, p. 25, Jan. 12, 1927.

<sup>6</sup> Ben B. Cain, general counsel, American Short Line Railroad Association, Hearings, H. R. 11212, p. 184, June 4, 1926.

<sup>7</sup> Alfred P. Thom, general counsel, Association of Railway Executives, Hearings, S. 2224, p. 66 et seq., Jan. 7, 1925.

<sup>8</sup> Annual Report Interstate Commerce Commission, 1925, p. 72.

some cases, more especially with reference to terminal properties, joint ownership or control will better serve the public interest.<sup>3 7</sup>

6. The commission has no express authority to disapprove any proposed consolidation on the ground that it does not include a particular carrier which ought to be included, in the public interest.<sup>1 11 8</sup>

7. Question whether consolidations or unifications can be accomplished under State laws without approval of commission when not contrary to Federal antitrust or other laws. Commission believes there should be definite provision making it unlawful to consolidate or unify railroad properties in any way except upon specific approval and authorization by order of the commission.<sup>2 11</sup>

8. Act should cover all kinds of unification, whether direct or indirect, as by holding companies.<sup>2 11</sup>

9. There is no adequate provision for Federal machinery needed to effect a consolidation approved by the commission.<sup>1 9 4</sup>

10. The transportation act makes no adequate provision for adjusting the claims of dissenting minority stockholders.<sup>1</sup>

11. The act limits the capitalization of any consolidated company to the aggregate value of the properties consolidated, as determined by governmental authority, but this value has not yet been determined for many of the railroads of the country. Such provision must result in delay of consolidations.<sup>1 4 11 10</sup>

12. The Federal and State taxes now levied on the processes of consolidation constitute an obstacle to railroad consolidation.<sup>1</sup>

#### PROPOSED AMENDATORY LEGISLATION, 1924-1929

Bills have been introduced in both Houses of Congress at practically every session since the first session of the Sixty-eighth Congress (1923-24) for the purpose of remedying these claimed defects, the authors proceeding at all times upon the assumption that consolidation was an established policy. Hearings have been held by the Interstate Commerce Committee of the Senate and the Committee on Interstate and Foreign Commerce of the House. At each of these hearings practically the same witnesses or witnesses representing the same organizations have appeared.

Following is a list of bills introduced, authors, hearings held, witnesses appearing at each hearing, and disposition of bills. The views advanced upon these hearings will be set out later under appropriate headings.

<sup>1</sup> Memo Chamber of Commerce of the United States, dated Dec. 30, 1926, Hearings, S. 4892, p. 46.

<sup>2</sup> Joseph B. Eastman, chairman, Interstate Commerce Commission, Hearings, S. 1870, p. 40 et seq., Jan. 22, 1926.

<sup>3</sup> John E. Oldham, investment banker, Hearings, S. 2224, p. 33 et seq., May 21, 1924.

<sup>4</sup> Henry C. Hall, Interstate Commerce Commissioner, Hearings, H. R. 5641, p. 4 et seq., Dec. 19, 1927.

<sup>5</sup> Wilbur LaRoe, associate counsel, Port of New York Authority, Hearings, S. 2224, p. 38, May 21, 1924.

<sup>6</sup> Bird M. Robinson, president American Short Line Railroad Association, Hearings, S. 2224, p. 143, Jan. 13, 1925.

<sup>7</sup> Robert S. Lovett, chairman board of directors, Union Pacific R. R. Co., Hearings, H. R. 11212, p. 73, May 25, 1926.

<sup>8</sup> Alfred P. Thom, general counsel, Association of Railway Executives, Hearings, S. 2224, p. 66 et seq., Jan. 7, 1925.

<sup>9</sup> Annual Report Interstate Commerce Commission, 1925, p. 72.



## SIXTY-EIGHTH CONGRESS:

## Senate—

January 24, 1924, S. 2224, Senator Cummins.

Hearings May 21, 1924 (first sess.), and January 7, 8, 9, 10, 13, 1925 (second sess.).

Not reported.

Witnesses: Hon. Herbert Hoover, Secretary of Commerce; John E. Oldham, investment banker; Wilbur LaRoe, jr., associate counsel, Port of New York Authority; Alfred P. Thom, general counsel, Association of Railway Executives; Ben B. Cain, vice president and general counsel, American Short Line Railroad Association; Bird M. Robinson, president American Short Line Railroad Association; Frank W. Noxon, secretary Railway Business Association (statement).

## House—

December 8, 1924, H. R. 10470, Mr. Winslow.

No hearings.

Not reported.

## SIXTY-NINTH CONGRESS:

## Senate:

December 21, 1925, S. 1870, Senator Cummins.

Hearings January 21, 22, 23, 28; February 5, 6, 16, 18, 19, 24, 25, 1926 (1st sess.).

S. 3840 reported as substitute.

Witnesses: Alfred P. Thom; Ben B. Cain; Wilbur LaRoe, jr.; Hon. Joseph B. Eastman, chairman Interstate Commerce Commission; R. C. Fulbright, for National Industrial Traffic League; Hon. Henry C. Hall, member, Interstate Commerce Commission; Nathan L. Amster, president Citizens National League; A. H. Harris, vice president, New York Central Lines.

April 5, 1926, S. 3840, Senator Cummins, reported favorably by Interstate Commerce Committee as a substitute for S. 1870 (Rept. No. 580).

No action in Senate.

December 17, 1926, S. 4892, Senator Fess.

Hearings, January 12, 14, 19, 20, 25, 27, 28; February 7, 8, 1927 (2d sess.).

Witnesses: Alfred P. Thom; Ben B. Cain; R. E. Fulbright; John E. Benton, solicitor, National Association Railroad and Utilities Commissioners; William H. Williams, chairman of board Missouri Pacific Railroad System; L. F. Loree, chairman executive committee, Kansas City Southern Railway Co. (statement).

## House:

April 12, 1926, H. R. 11212, Mr. Parker.

Hearings May 24, 25, 26, 27; June 3, 4, 8, 9, 10, 11, 15, 17, 18, 1926 (1st sess.).

No report.

## SIXTY-NINTH CONGRESS—Continued.

## House—Continued.

Witnesses: Alfred P. Thom; Ben B. Cain; Dr. C. S. Duncan, economist, Association of Railway Executives; Robert S. Lovett, chairman of board, Union Pacific Railroad Co.; Hon. Henry C. Hall; John E. Oldham; Elliott H. Goodwin, vice president, United States Chamber of Commerce.

March 3, 1927, H. R. 17403, Mr. Parker.

Introduced as substitute for H. R. 11212.

No hearings. No report.

## SEVENTIETH CONGRESS:

## Senate:

S. 1175, Senator Fess.

Hearings January 9 to 21 and March 3, 1928 (1st sess.).

Not reported. S. 5817 reported as a substitute.

Witnesses: Alfred P. Thom; Ben B. Cain; Hon. Henry C. Hall; Wilbur LaRoe, jr.; Samuel W. Moore, counsel, Kansas City Southern Railway Co.; R. C. Fulbright; Daniel Willard, president Baltimore & Ohio Railroad Co.; L. S. Cass, vice president, American Short Line Railroad Association (statement).

S. 5817, Senator Fess.

Substituted for S. 1175.

No hearings.

Reported February 22, 1929, Report No. 1884.

No action in Senate.

## House:

December 5, 1927, H. R. 5641, Mr. Parker.

Same as H. R. 17403 (69th Cong.).

Hearings December 19, 20, 1927; January 6, 19, 20, 24, 25, 26, 27, 31; February 1, 2, 3, 7, 8, 9, 10, 1928.

No report. H. R. 12620 reported as substitute.

Witnesses: Alfred P. Thom; Ben B. Cain; Hon. Henry C. Hall; R. C. Fulbright; Wilbur LaRoe, jr.; L. S. Cass; Elihu Root, jr., representing minority stockholders of Big Four; W. Dougherty, vice president and legislative representative Brotherhood Railway Trainmen (statement).

April 2, 1928, H. R. 12620, Mr. Parker.

Substitute for H. R. 5641.

Reported favorably April 3, 1928, Report No. 1264.

Hearings December 4, 1928, after report.

No action in House.

Witnesses: Alfred P. Thom; Henry W. Clark, general counsel Union Pacific Railroad Co.; Albert H. Harris; R. C. Fulbright; Robert S. Lovett; J. P. Blair, general counsel Southern Pacific Railroad Co.

## SEVENTY-FIRST CONGRESS:

## Senate—

April 23, 1929, S. 668, Senator Fess.

Same as S. 5817 (70th Cong.).

Referred to Committee on Interstate Commerce.

No action by committee.

## SEVENTY-FIRST CONGRESS—Continued.

## House—

May 21, 1929, H. R. 3208, Mr. Parker.

Same as H. R. 12620 (70th Cong.).

Referred to Committee on Interstate and Foreign Commerce.

No action by committee.

## SYNOPSIS OF BILLS INTRODUCED

## S. 2224

On January 24, 1924, Senator Cummins introduced S. 2224, amending section 5 (the consolidation section) of the transportation act.

S. 2224, while continuing the requirement for the preparation of a plan, provided for the following substantial changes in the existing law:

Authority granted commission to adopt alternate plans.

Authority granted to omit from systems terminal properties, or provide for joint use of such terminals.

Would permit reorganizations to be carried out by (a) consolidation or merger of two or more carriers; (b) reincorporation of a carrier as a Federal railroad corporation; (c) acquisition of any part of the properties of a carrier; (d) acquisition of the right to operate any part of the railway properties of a carrier; (e) acquisition of the securities of a carrier in pursuance of arrangement to acquire control of such carrier, or an acquisition of securities of a carrier in which control has been acquired.

Provided for approval of reorganizations prior to the adoption of a plan if the public interest would be promoted.

Provided for consolidation committees to assist in carrying out reorganizations.

Provided for condemnation of minority stock.

Continued provisions that securities should not exceed value of property of carriers.

Provided after seven years for adjustment by commission of income within uncompleted systems by establishing divisions so that net operating income would be equal as nearly as might be to fair return upon the value of the railway property within the system of each carrier, and the result as nearly as possible the same as the result of consolidation.

Provided, also, after seven years, for reorganization by condemnation of railroad properties within a system.

Provided method of Federal incorporation.

Provided for termination of proceedings under paragraph 2 of section 5 (acquisitions of control not amounting to consolidation).

(Hearings on this bill. No report.)

## RECOMMENDATIONS OF INTERSTATE COMMERCE COMMISSION, 1925

In the annual report of the Interstate Commerce Commission for 1925 appears the following:

"In our last report it was noted that the work of preparing the complete plan of consolidation was progressing. On February 4, 1925, we addressed a letter to the chairman of the Senate

Committee on Interstate Commerce in which the majority of the commission expressed doubt as to the wisdom of the provisions of the law which now require us to adopt a complete plan to which all future consolidations must conform. They further stated that they had been impelled to the belief that results as good, and perhaps better, are likely to be accomplished with less loss of time if the process of consolidation is permitted to develop under the guidance of the commission in a more normal way. A proposed amendment to section 5 of the interstate commerce act was attached to the letter." (P. 13, I. C. C. Report, 1925.)

The recommendation as to the amendment, as set forth in the 1925 report, was as follows:

"5. That paragraphs (2) to (6), inclusive, of section 5 of the interstate commerce act be amended (a) by omitting therefrom the existing requirement that we adopt and publish a complete plan of consolidation; (b) by making unlawful any consolidation or acquisition of control of one carrier by another in any manner whatsoever, except with our specific approval and authorization; (c) by giving us broad powers upon application and after hearing to approve or disapprove such consolidations, acquisitions of control, mergers, or unifications in any appropriate manner; (d) by giving us specific authority to disapprove a consolidation or acquisition upon the ground that it does not include a carrier or all or any part of its property which ought to be included in the public interest and which it is possible to include upon reasonable terms; (e) by modifying subparagraph (b) of paragraph (6) so that the value of the properties proposed to be consolidated can be more expeditiously determined; and (f) by providing that in the hearing and determination of applications under section 5 the results of our investigation in the proceeding on our docket known as No. 12964, Consolidation of Railroads, may be utilized in so far as deemed by us advisable."

These recommendations have been repeated in subsequent reports of the commission.

## S. 1870

On December 31, 1925, Senator Cummins introduced S. 1870, which modified the provisions of S. 2224 in the following respects:

1. Abandoned Federal incorporation features contained in S. 2224 because of determined opposition to such procedure.

2. Postponed for three years the obligation on the part of the commission to agree upon and promulgate a plan.

3. Contained declaration of policy of Congress as to consolidations, as follows:

"Inasmuch as the public interest requires that the transportation of passengers and property by railroad shall be at the lowest rates consistent with a fair return upon the value of the railway properties held for and used in the service of such transportation, and inasmuch as the varied conditions under which such transportation occurs render it impossible to accomplish that end without the further consolidation of carriers and unification of railway properties, it is hereby declared to be



the policy of Congress that a limited number of systems should be established, by the consolidation of carriers or the unification of railway properties within the continental United States, that will, as fully as possible, preserve competition and, wherever practicable, maintain the existing routes of trade and channels of commerce. Such systems shall also be so arranged, so far as practicable, that the cost of transportation as between competitive systems and as related to the values of the railway properties through which the service is rendered shall be the same, to the end that such systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties."

4. Provided that during 3-year period carriers might make application for approval of:

(a) A corporate consolidation or merger into one corporation of any of the carriers making the application;

(b) The unification of railway properties by the acquisition (through purchase, exchange, lease, or otherwise) by any such carrier of any of the railway properties or franchise rights, or the right to operate any of the railway properties, of any other carrier; and/or

(c) The unification of control by the acquisition (through purchase, exchange, or otherwise) by any such carrier of securities issued by any other carrier, if such acquisition is in pursuance of an arrangement or purpose to acquire control or additional control of such other carrier, directly or indirectly, through voting power or otherwise.

5. Provided that order of commission might be in accordance with application or with such modifications thereof, or upon such terms, conditions, and methods as it may prescribe.

6. Provided for intervention by carriers believing they should be a part of proposed consolidation or merger.

7. Inferentially authorized commission in prescribing modifications to require that carrier not included in application be made a party to the proposed consolidation or unification; carriers presenting application to report back to commission efforts made to comply with requirements, and if after hearing commission is of opinion that the carrier to be made party is insisting on unreasonable terms, commission may revoke or modify requirement or prescribe terms on which carrier may be made party to proposed consolidation or unification.

8. Securities of nonassenting holders, where securities to be retired or surrendered in exchange for other security, to be acquired by purchase or condemnation.

9. No tax to be levied by United States or any State or political subdivision in respect of consolidation transactions, except United States revenue tax on gain.

10. Omits provisions for limitation of securities to value.

11. At end of three years if railroads have not been completely consolidated, commission is to adopt a plan for completion of limited number of systems.

12. Provides for condemnation of railway properties within system by carrier owning or controlling major part of main-track mileage within a system.

13. Amendment of recapture provisions to provide that all excess income for 1920 and subsequent years to December 31 of the year

in which plan is adopted to be distributed to carriers failing to earn net railway operating income equal to 5 per cent. After adoption of plan all moneys above 6 per cent earned by carriers within any system to be distributed to carriers within system not earning 5 per cent, until their return is brought up to 5 per cent. When distributions to all properties within system together with earnings give all 5 per cent, balance to be distributed in amounts proportionate to value of properties up to fair return; excess above that to be repaid to contributing carriers in proportion to contributions.

With reference to this provision, Senator Cummins said (p. 31, Hearings, S. 1870):

"I might just as well say now that the only compulsory feature in this bill, and that is only compulsory because it may furnish a motive for the railway companies to proceed promptly and vigorously under this plan, is this, that after three years the commission is to make its plan. It is supposed that it can make it much more easily than it can now, because it is hoped that a large part of this consolidation process will have occurred in the three years that immediately follow. But at the end of that time then a complete plan is made and this bill provides that an account shall be taken of the net income of the railroads composing any particular system under this plan, and that then if it is found that any railroad in that system is earning more than 6 per cent upon the value of its property that the excess shall be taken and distributed among the roads which have not yet been consolidated with the system, but which have been allocated to the system by the commission, and shall be distributed among those roads in that system which have earned less than 5 per cent. Now that is the only compulsory feature in this bill. I want to be absolutely frank. I think that it will be a very effective spur. I am bound to think that or I would not have put it in."

S. 3840

April 5, 1926, the Senate Committee on Interstate Commerce introduced and reported favorably S. 3840 (Rept. No. 580) as a substitute for S. 1870. This report is stated by Senator Cummins to have been prepared by him and not specifically acted upon by the committee.

The report sets forth the railway mileage of the United States; 250,000 miles single main track, aside from additional main track, siding, etc., that railway properties are owned by about 1,500 and operated by about 1,000 separate and independent railway companies, of which about 190 are classified by the Interstate Commerce Commission as roads of class I, i. e., having gross operating revenues of \$1,000,000 per year or more; the remaining mileage being distributed among the roads of class II and class III; 236,000 miles single-track mileage being class I and the remainder class II and III.

It further recites that the net railway operating incomes of all railways in the United States was in 1922, \$769,411,093; 1923, \$974,917,715; 1924, \$987,123,417; which income would in 1924 have paid more than 5 per cent on the value of these properties as tentatively determined by the commission in 1920 with capital investments since added. That the 22,000 miles of Class II and Class III

roads as a whole barely earned operating expenses. That 70 railway companies of Class I, operating over 54,000 miles for 1922, 1923, and 1924, had average net railway operating income of less than 3 per cent upon their property-investment accounts; 21 of these companies did not earn cost of operation and maintenance; 30 additional roads of Class I earned average net railway operating income of less than 4 per cent. (See tables p. 10, et seq. report.)

That if a process of wise consolidation is not soon entered upon and rapidly carried forward not less than 60,000 miles, and perhaps 80,000 miles, of rail-transportation system must be abandoned, or will be rendering most unsatisfactory and inefficient service.

The report states: "These facts present the chief, though not the only, reason for the passage of this bill. Argument upon these conditions seems to be necessary. If the facts are fairly understood, consolidation, in some form, is a for gone conclusion."

"While the continued and successful operation of all our railway lines is the principal reason for consolidation, it will be borne in mind that many students of the subject believe that great economies, both in operation and in maintenance, would be attained through intelligent and supervised consolidation. Unnecessary train service could be avoided, great overhead expenses could be eliminated, repairs upon equipment could be immensely reduced and haulage of empty cars could be largely overcome. It has been estimated that with the service now being rendered there could be a saving of from \$300,000,000 to \$500,000,000 annually, all of which could be utilized in a reduction of freight and passenger rates."

After setting out the provisions of the transportation act with reference to consolidations, the report recites the work done by Professor Ripley, the preparation of the tentative plan by the commission, and its subsequent hearings. That commission has been unable to agree upon a plan, because of its interpretation of present law as requiring a consolidation into a single ownership of the railways to constitute any given system. That this view of the statute presents insuperable obstacle in practical procedure of consolidation. That commission has been compelled to resort to paragraph 2 of section 5 as authority for what unifications have taken place. That this is principal reason for introduction of bill.

#### ANALYSIS OF BILL

1. Relieves commission of duty to prepare plan for period of five years (instead of three as in S. 1870) and to provide for voluntary applications in meantime.

2. Declaration of policy. (Note difference in statement as to competition from 1870.)

"Inasmuch as the public interest requires that adequate transportation service shall be furnished by carriers to the public at the lowest rates consistent with such service and a fair return upon the value of the railway properties held for and used in such transportation, and inasmuch as the varied conditions under which such transportation occurs render it impossible to accomplish that end without the further consolidation of carriers and unification of railway properties, it is hereby declared to be the policy of Congress that a limited number of systems

should be established by the consolidation of carriers or the unification of railway properties within the continental United States, that will, so far as practicable, maintain the existing routes and channels of trade and commerce *and preserve as between themselves evenly balanced and effective competition equalizing, so far as practicable, the opportunities of originating traffic and of its interchange and delivery.* Such systems shall be arranged, so far as practicable, that they can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties."

3. The remaining sections of the law as to procedure set forth in the report are very similar to those of S. 1870.

4. If at the end of five years the limited number of systems to be established in accordance with policy set forth in first paragraph have not in opinion of commission been adequately provided for, commission shall as soon as practicable prepare a plan for completion of such limited number of systems, either by establishment of additional systems or by allocation to any existing system of any carrier or properties not included in any such approved consolidation or unification.

5. Terminal properties or outside lines may be omitted from any established system in discretion of commission.

6. Provides for condemnation of properties to be brought into system.

7. Recapture features modified to make test of excess earnings average of three years; sums to be distributed to carriers earning less than 5 per cent, and after plan has been adopted excess collected to be distributed only to roads in system.

This bill was never acted upon by the Senate.

#### S. 4892

No action having been taken on S. 3840, which had been reported favorably to the Senate, Senator Fess on December 17, 1926, introduced S. 4892, and hearings were held on this bill during January and February, 1927. No report was submitted to the Senate, however.

This bill was somewhat similar in form to H. R. 11212.

As compared with S. 3840:

Declaration of policy changed in form, but statement as to competition the same.

Provision for condemnation of minority securities, but not of entire road.

Omits provision for making of any plan by the commission.

At the expiration of seven years the commission shall report to Congress the extent to which unifications have taken place, and its recommendations as to further proceedings.

#### S. 1175

No action having been taken on S. 4892, S. 1175 was introduced by Senator Fess at the first session of the Seventieth Congress and hearings held in January and March, 1928.

This bill was practically identical with S. 4892.

Suggestions as to amendments of S. 1175 were made by Mr. Thom on behalf of the railroads. These appear in the hearings on S. 1175, following the bill. The declaration of policy appearing in S. 4892 is omitted from the proposed railroad draft, because of objection to such declaration in the House. (Hearings, S. 1175, p. 84).

#### H. R. 11212

On April 12, 1926, Mr. Parker, of New York, who had succeeded Mr. Winslow (author of H. R. 10470, which had been introduced in the House on December 8, 1924, and provided for a 5-year voluntary trial period, after which it should be the duty of the commission to publish a plan of systems, and formulate and report to Congress its suggestions for a method whereby the authority of the Government might be directly invoked to bring about such consolidations—i. e., that Congress should then decide on the question of adopting compulsion, as distinguished from S. 2224, which provided for the compulsion at the end of the voluntary period), introduced H. R. 11212. This bill was indorsed by the Interstate Commerce Commission.

Hearings were held on this bill during May and June, 1926.

#### S. 5817 and S. 668

As noted in the summary of legislation, after the hearings on S. 1175, S. 5817 was introduced as a substitute for S. 1175 and reported favorably to the Senate. No action having been taken at the Seventieth Congress, S. 668, identical in language with S. 5817 as reported, except as noted in the detailed discussion, *infra*, page 197, was introduced by Senator Fess in the Seventy-first Congress, and it is now before this committee.

#### H. R. 17403, H. R. 5641, H. R. 12620, and H. R. 3208

In the House, after the hearings on H. R. 11212, H. R. 17403 was introduced by Mr. Parker as a substitute; in the Seventieth Congress, H. R. 5641, identical with H. R. 17403, was introduced; and after hearings on that bill H. R. 12620, being the final draft of the committee, was introduced and reported favorably. No action having been taken on it in the Seventieth Congress, H. R. 3208, identical with it, was introduced by Mr. Parker in the Seventy-first Congress, and that bill is now before the Interstate and Foreign Commerce Committee of the House.

The provisions of S. 5817 (now S. 668) and of H. R. 12620 (now H. R. 3208) are fully explained in the report accompanying S. 5817 (S. Rept. No. 1884, Seventieth Cong.).

A discussion of these features will be found under the heading Present Proposed Legislation.

#### HEARINGS BEFORE SENATE AND HOUSE COMMITTEES

In all the hearings which have been held, as has been noted, practically the same witnesses have appeared and to a large extent the same matters have been discussed on each hearing. This testi-

mony, covering over 2,000 pages, may be very briefly summarized under a few principal heads.

#### REASONS FOR CONSOLIDATION PROVISIONS IN LAW

The reasons assigned by the proponents of the transportation act have already been set out. However, at the risk of repetition, in order that all the possible reasons for the inclusion and retention in the law of such provisions, and as well statements of contrary opinion, may appear, there are here set out the views expressed in that regard at the various hearings.

Hon. HERBERT HOOVER, then Secretary of Commerce, testified at the hearings on S. 2224 (1924-25), to the results of a study made by him at the request of President Harding. Following is a summary of his conclusions:

##### MAJOR REASONS FOR CONSOLIDATION

- (a) Solution for handling weak roads;
- (b) Permits more equitable adjustment of rates between commodities;
- (c) Permits better adjustment of railway rates;
- (d) Certain advantages in economy of operation.

Larger units of operation:

When we arrive at decision that railways shall be regulated as to rates and profits, we eliminate justification for multitude of independent utilities for purpose of securing rates by competition.

We should assure national needs and secure economies by early promotion of large units of operation.

##### WEAK ROADS

Larger element of the whole problem that certain roads now unable under any certain maximum of rates to earn enough to perform their share of public service; 1,600 companies in business, 150 of which have operating revenues of \$1,000,000 or more per annum.

Many weak roads could not earn enough to finance themselves under free competition, and yet they are necessary to communities they serve; 50,000 to 60,000 miles of road earn less than fair return; 70,000 miles earn more.

Roads below average must be incorporated with other railways to provide sound financial position.

Many weak roads are feeders. Requires either adjustment of division of rates or consolidation.

Problem of finance greatest. Mortgages to raise money not sound method. Should be able to raise by issues of stock.

##### EQUITABLE DISTRIBUTION OF RATES BETWEEN COMMODITIES

Present rate structure presents inequalities in commodity rates. Some roads now dependent on one class of traffic. No rate relief without consolidations which would provide diversification of traffic by larger systems, making it possible to equate burden and build up more logical structure.



Mr. JOHN E. OLDHAM, investment banker of Boston, who appeared at several hearings on the consolidation problem, and who has made a special study of that problem, appeared at these hearings. His testimony presents very concisely the arguments made by advocates of consolidation, who consider the rate problem the chief factor.

In a memorandum to the Interstate Commerce Commission of November 23, 1923 (Hearings S. 2224, p. 50), Mr. Oldham summarizes the premises upon which he bases his conclusions as to consolidation as follows:

"The conclusions I have reached as to railroad consolidations are based upon a recognition of the following:

#### PREMISES

"1. That the railroad policy of the United States is that the railroads are to be privately owned and managed, are to be operated on the competitive rather than the monopolistic principle, and are to be under public regulation.

"2. That the permanency of this policy is dependent upon the ability of the railroads to furnish adequate service under such rates and other conditions as may be established by the regulatory code.

"3. That the ability of the railroads to furnish adequate service is dependent upon the receipt by them of an income sufficient to induce their owners or other investors to furnish them with additional capital as needed.

"4. That no system of rate making can be based upon the condition or position of each individual road, but must be based

"5. That even though the system of rate making must be based upon average rather than individual conditions, yet the success and permanency of such a system can be assured only if all railroads subject to it shall be able to attain similar financial and operating results, and that obviously such similar results can be attained only if the railroads themselves are similar in character, each approximating the character of the railroads as a whole in the territory which it serves.

"6. That Congress, recognizing the necessity of providing adequate income for the railroads, has defined such income as being an amount sufficient for a fair return upon the value of the property used in the service of transportation, and has provided a method of rate making designed to produce in the aggregate a railroad income equal to such fair return upon the aggregate value of such railroad property.

"7. That Congress, also recognizing the necessity of providing for railroads of average or uniform character in order that each may obtain a similar income from the system of rate making then provided, inserted the provisions relating to consolidations, the underlying purpose of which is to establish railroad units of such uniform character as is necessary to secure the successful application of the rate-making provisions of the transportation act."

#### CONCLUSION

From this he reaches the following conclusion:

"I reach the conclusion, therefore, that the provisions of the transportation act relating to consolidations are primarily the logical result of the method of rate making provided by the act."

It will be noted that while Mr. Oldham's premises follow closely those set out in the Senate committee report on the original transportation act (p. 14, supra), he lays no emphasis on the weak-road problem as a primary cause for consolidation, but draws the conclusion rather that the consolidation provisions of the law were intended to carry out the rate-making theory of the transportation act. Such a conclusion would, of course, require the establishment of consolidated systems according to a complete plan, because otherwise the balancing operation could not be performed.

#### PROVISIONS FOR CONSOLIDATIONS RESULT OF RATE-MAKING METHOD

In an article by Mr. Oldham published in the Harvard Business Review of January, 1923, submitted in connection with his testimony at the hearings on S. 2224 (p. 44) he stated a similar view in this language:

"The provision for consolidations was the logical result of the rate-making method adopted by the transportation act. Rates are to be made for each rate district which shall produce a fair return on the aggregate value of all railroad property within the district, but without regard to the ownership of individual properties. Under this method of rate making the public is to pay transportation charges designed to be sufficient to provide adequate transportation in all parts of the territory. In return for such payment the public is obviously entitled to receive adequate service from property wherever located in the territory. The owners of the railroad property, considered as one group, having received income sufficient to cover the cost of furnishing adequate transportation service everywhere throughout the district, are under obligation to furnish such service for which the public has paid. The ownership of all of the property in the rate-making district must be distributed among different owners, therefore, so that the owners of property which receive more than the fair return under the established rates shall have also an interest in the ownership of the parts of the property which receive less than such fair return."

And after quoting paragraph 4 of section 5, he concludes (p. 45):

"It is thus apparent that the consolidation provisions of the transportation act are of fundamental importance, and that a failure to accomplish consolidations as indicated will make impossible the successful application of the service-at-cost method of rate making which is now prescribed for the railroads."

## CONSOLIDATION SOLUTION OF RATE PROBLEM

At the hearings on H. R. 11212 (p. 489) Mr. Oldham advanced the same reasons in slightly different language, stating in substance:

Unless some practical way is found to give to each system income adequate for its needs, some roads which are important parts of the Nation's transportation system can not be made financially sound, and the provision for rate making under the transportation act will not fully accomplish its purpose. To apply the service-at-cost method with complete success it will be necessary either (a) to consolidate all the railroads in each rate-making territory into one system, thus creating a monopoly and completely eliminating competition; or (b) to provide a method which is practicable and economically sound for equalizing the income of the various roads by a redistribution of the earnings so that each road will receive from the whole such amount as is necessary for its cost of operation and a fair return upon the value of its property; or (c) to combine the more favorably and less favorably situated roads in each rate-making district so that the systems resulting from the combinations will be able to obtain uniform results under uniform rules.

Monopoly not to be considered because of elimination of competition which would offend public sentiment and be contrary to intent of transportation act.

Equalization of income by redistribution of earnings presents too many practical difficulties. To take income from some roads receiving more from a given schedule of rates than that to which they are entitled under service-at-cost principle and hand it over to other roads receiving less entails exact standardization of operating costs and maintenance charges and standardization also of efficiency in management, for a road is entitled to a fixed return only if it is efficiently managed. Such standardization is practically impossible. Railroad management knowing excess earnings will be taken away will be under temptation to conceal excess earnings through increase in operating expenses and not under any incentive to keep costs down to lowest amount, and little incentive to road which knows that shortage in income will be made up to keep shortage small by economies of operation.

Recapture economically unsound because to take away rewards to efficiency and to make awards to inefficiency would destroy incentive of railroad managements to take advantage of their opportunities. On one hand railroad management would become shiftless and extravagant; under the other each management would constantly try to conserve its resources and to become efficient.

Concludes that consolidation is the only solution.

Mr. ALFRED P. THOM, general counsel of the Association of Railway Executives, at the hearings on S. 1870 (1926), stated (p. 152) some of the advantages of consolidation, in substance, as follows:

## CONSOLIDATION WILL PERMIT SCIENTIFIC RATE MAKING

One advantage of consolidation, gets rid of thoroughly artificial method of making rates. Rates now made for the purpose of providing larger support for weak lines. This results, as declared by Congress, in more than fair return for some lines, and therefore we have policy of recapture. If by consolidation weak-line problem can disappear and weak lines be woven into large competent effective transportation system, Congress will be liberated to make scientific rates and relate rates to service, and when rates are related to service shipping public will not be called upon to pay more than necessary to take care of weak-line problem, but will be charged what it ought to be charged considering rate related to service shipper will receive. In addition to this beneficial effect on shipping public, there will be beneficial effect on railroads, and management can have rewards they can reap from service they render.

## WEAK-ROAD PROBLEM

At the hearings on H. R. 11212 (1926), Mr. Thom stated (p. 354):

"It is also proper, I think, to call attention to the fact that the policy of consolidation did not originate with the railroad executives. It originated with the gentlemen performing their duties here in Congress in trying to create a better system of regulation, which finally took form in the transportation act of 1920. At that time those of you who were in Congress realized that there was a very great interest in the question of providing for the weak lines of railroads. The method finally agreed upon and stimulated by the desire to take care of the weak roads first, the recognition of the group method of rate making, coupled with a percentage of value which should be a measure of the aim which the commission should endeavor to reach in providing revenues, and, deeming that that would mean rates higher than would be made if they had only the strong roads to consider, the conclusion was reached that a certain proportion of the earnings above a given per cent should be taken away from those carriers that earned them.

"That method has been defined by the chairman of the Senate committee as an ad interim or makeshift method of dealing with the weak-road problem. The ultimate and final method of dealing with it was, in the opinion of those gentlemen, through consolidation."

Dr. C. S. DUNCAN, economist of the Association of Railway Executives, testifying before the House Committee on Interstate and Foreign Commerce, at the hearings on H. R. 11212 (1926), (p. 11, et seq.), summarized the reasons for a policy of consolidation as gained by him from an examination of the hearings held prior to and after the passage of the transportation act, as follows:

## SUMMARY OF REASONS FOR CONSOLIDATION

1. The rehabilitation of the railroads' credit, in order that transportation facilities may be kept in step with the increasing demands for transportation service.
2. That transportation facilities, adequate and efficient in character, shall be maintained for the service of all communities throughout the country.
3. That the so-called "weak line" problem should be solved and disappear.
4. That rate making for the railroads as a whole would thus be simplified in that rates would not need to be raised so as to give strong carriers larger revenues than they need in order that weaker lines may live, but rates may be placed upon a sound economic basis.
5. That the resulting large consolidated systems would not be made so as to disrupt or interfere with the natural flow of traffic.
6. That competition *as between the enlarged and strong systems* should be maintained and "honorable rivalry among men" should be maintained as "the most powerful stimulus known to human effort."
7. That every consolidation shall require the sanction of the Interstate Commerce Commission.

## CONSOLIDATION ALWAYS A FACTOR IN RAILROAD DEVELOPMENT

On examination by members of the committee, Doctor Duncan said:

Mr. LEA (p. 42). Would there be sufficient reason for the consolidation movement outside of the weak road, from the standpoint of the public?

Doctor DUNCAN. This is my position in regard to it, as I tried to develop. If you study the history of railroad development closely, you will see that consolidation has been a factor which has been characteristic of it all along the way. I do not conceive that that progress has reached a point where it can go no further. There may be opportunities for further consolidation with advantage to all parties, and I was saying that if you accept it as a policy of the Government and the railroads should seek further advantage by further consolidation, then you ought to make it possible for them to do so. Some parts of the country have a more developed railroad net than other parts of the country. It may be that there would be opportunities for consolidation in some parts of the country equally advantageous with anything that has ever taken place. That is a matter for particular study. But if there are men who believe that in the public interest of better transportation service and their relations to the public, they could go on and consolidate, then I say they ought to have an opportunity to do so under proper safeguard. That is the point I am trying to make.

## NATIONAL INTEREST—RAILROADS ENABLED STRENGTHEN GENERAL TRANSPORTATION SYSTEM BY CONSOLIDATION

(Doctor Duncan stated (p. 42) that he was assuming it to be the policy of the Government to have consolidation.)

Mr. HOCH (p. 45). Let us set aside for the moment the assumption that consolidation is an adopted policy and that consolidations are to be encouraged. You have stated, as I understood, that there is a very great difference of opinion as to whether any considerable economies will be effected.

Doctor DUNCAN. Yes, sir.

Mr. HOCH. So we can not give that as any controlling reason for consolidation; that is, to promote economies. Then you have stated that you have thought that the problem of the weak lines was an entirely separate one and should be considered by the commission entirely apart from the matter of consolidation.

Doctor DUNCAN. That is true.

Mr. HOCH. If that be true, from the standpoint of public policy why should we encourage consolidations? What great national interest is to be served by promoting consolidations of railroad systems?

Doctor DUNCAN. Well, sir, the great national interest, and the only one that I can see, is to enable the railroads themselves, carrying out their own initiative and through consolidations, in so far as they may be approved, to strengthen the general transportation system of the country. There may be instances—I do not think that it is national in character at this time—but there may be instances where important railroads, essential to the life of various communities, might be saved in that way. I did not, of course, intend to leave the impression that this is emergency legislation which must be enacted right now. I was not discussing it from the point of view.

President COOLIDGE, in his message to Congress in December, 1924, said (see p. 356, hearings, H. R. 11212):

"In my message last year I emphasized the necessity for further legislation with a view to expediting the consolidation of our railways into larger systems. The principle of Government control of rates and profits now thoroughly imbedded in our governmental attitude toward natural monopolies such as the railways at once eliminates the need of competition by small units as a method of rate adjustment.

## COMPETITION MUST BE PRESERVED—CAN BE INCREASED UNDER ENLARGED SYSTEMS

"Competition must be preserved as a stimulus to service, but this will exist and can be increased under enlarged systems. Consequently, the consolidation of railways into larger units for the purpose of securing substantial values to the public which will come from larger operation has been the logical conclusion of Congress in its previous enactments and is also supported by the best opinion in the country.



## BENEFITS OF CONSOLIDATION

"Such consolidation will assure not only a greater element of competition as to service, but it will afford economy in operation, greater stability in railway earnings, and more economical financing. It opens large possibilities of better equalization of rates between different classes of traffic so as to relieve undue burdens upon agricultural products and raw materials generally, which are not possible without ruin to small units owing to the lack of diversity of traffic. It would also tend to equalize earnings in such fashion as to reduce the importance of section 15-A at which criticism often misapplied has been directed.

"A smaller number of units would offer less difficulties in labor adjustments and would contribute much to the solution of terminal difficulties. The consolidations need to be carried out with due regard to public interest and to the rights and established life of various communities in our country. It does not seem to me necessary that we endeavor to anticipate any final plan or adhere to any artificial or unchangeable project which will stimulate a fixed number of systems, but rather we ought to approach the problem with such a latitude of action that it can be worked out step by step in accordance with the comprehensive consideration of public interest.

## PRESENT LAW NOT EFFECTIVE

"Whether the number of ultimate systems shall be more or less seems to me can only be determined by time and actual experience in the development of such consolidations. Those portions of the present law contemplating consolidations are not sufficiently effective in producing expeditious action and need amplification of the authority of the Interstate Commerce Commission, particularly in affording a period for voluntary proposals to the commission and in supplying Government pressure to secure action after the expiration of such a period."

President HOOVER, in his message to Congress on December 23, 1929, said:

## CHIEF PURPOSE OF CONSOLIDATION

"The chief purpose of consolidation is to secure well-balanced systems with more uniform and satisfactory rate structure, a more stable financial structure, more equitable distribution of traffic, greater efficiency, and single-line instead of multiple-line hauls. In this way the country will have the assurance of better service and ultimately at lower and more even rates than would otherwise be attained."

Hon. HENRY C. HALL, member of Interstate Commerce Commission (Hearings S. 1870 (1926), p. 96):

## ADEQUATE SERVICE PRIME NEED

"The public interest, as it seems to us, requires adequate service. That is the prime need of the country; the prime demand made upon the transportation agencies of the country. And

that seems to be indicated in the provision of 15a, paragraph 3, where stress is laid upon the adequacy of the transportation service. It would reflect certainly my thought a little more clearly here if it should be said that the public interest requires adequacy of service and that the rates should be the lowest that are consistent with that adequacy of service and with a fair return upon the value of the properties. Because if you have to choose between the two, the adequacy of service is the more important.

## DEBATABLE WHETHER CONSOLIDATION ESSENTIAL TO RATE REDUCTION

"The second part of what I have read (Par. 4, S. 1870) states that it is impossible to accomplish that end—that is, the lowest rates—without the further consolidation of the carriers. That end is getting the lowest rates consistent, as stated here, with a fair return. That last proposition is not indisputable. We, at least, do not know that it is impossible to secure the lowest rates consistent, as I would say, with adequacy of service and with a fair return, without the further consolidation of carriers and unification of railway properties. We think that such consolidation, properly safeguarded, might tend in that direction. But we are not sure that reduction in rates, or refraining from increase in rates, can not be accomplished without this further consolidation. That is at least a debatable proposition, and the suggestion is that it is not well to base all this important act upon a foundation that is not sure."

## UNITED STATES CHAMBER OF COMMERCE:

A special committee of the United States Chamber of Commerce, of which Carl R. Gray, president of the Union Pacific Railroad Co., was chairman, in a report on railroad consolidations dated November 6, 1923, summarized the reasons for and advantages of consolidation as follows (pp. 220-221, Hearings H. R. 11212):

The committee's findings and conclusions may be summarized as follows:

1. The transportation act of 1920 was intended to make possible the completion of the normal process of railroad grouping which began more than 70 years ago, but has in recent years been largely suspended through the operation of the anti-trust laws and through the restricted returns to the carriers. Some of the consolidation provisions of the act have been so interpreted, however, as to prevent or delay consolidations and thus far little has been accomplished toward reducing the 1,600 or more operating and lessor railroad companies, essential to the existing transportation system.

2. The act protects the public interest by prescribing certain definite principles to govern railroad consolidation on a nationwide scale and by placing in the Interstate Commerce Commission complete control of the further grouping of railroads. Such grouping is no longer subject to the Federal and State antitrust laws.

3. The provisions of the transportation act require that further consolidations of railroads must be approved by and be in harmony with a complete plan of consolidation to be adopted by the Interstate Commerce Commission. This plan should be completed as early as practicable and every facility to that end should be afforded the commission, if Congress adheres to this condition precedent.

4. The advantages to the public that may be expected from a further systematic grouping of the railroads are those which have, in large part, been obtained by many of the existing systems. They include—

(a) Development of a limited number of more uniformly strong and stable railroad systems, thus giving the public better assurance of adequate and efficient service, at reasonable rates and fares.

(b) Simplified and improved rate regulation made possible through more uniformity in the strength and the traffic characteristics of the several consolidated systems in each rate district, and permitting more ready adjustment in accordance with the economic needs of the various sections of the country and classes of traffic affected. This will not, however, adversely affect the existing rate basing points or the established principles of rate making.

(c) Economies in construction, maintenance, and operation which, while sometimes exaggerated, will nevertheless be important.

(d) Improved car service with wider movement of cars on their home systems, greatly lessened necessity of car interchange and the utilization of more direct routes, better grades, and shorter hauls.

(e) Preservation of competition in rates subject, as at present, to the limitations imposed by Government regulation, and maintenance of competition in service or often the enhancement of competition through rivalry between systems of relatively equal strength.

The negative arguments submitted with the referendum upon the question of the recommendation of the committee for supplementary legislation to facilitate consolidations are set out at page 55 *infra*.

Senator CUMMINS, at the hearings on S. 2224 (1925), said (p. 137):

"There was one great concern when we formulated the transportation act, to take care of the short lines and to keep them running in the service of the people. That is the object of consolidation, and I think it is the one thing that will determine whether we are to have public or private ownership."

#### CONTRA

All the witnesses, however, have not been so positive as to the certain advantages and necessity of consolidations on the scale proposed by the transportation act.

Hon. JOSEPH B. EASTMAN, then chairman of the Interstate Commerce Commission, testifying at the hearings on S. 1870 (1926) (p. 48, et seq.), said:

#### POLICY AS TO CONSOLIDATIONS—ECONOMIES

"Not so very long ago the dominating opinion in this country was that mergers, consolidations, or unifications of railroad properties, whatever they might be called, were hostile to the public interest and ought to be restrained by law in order that competition might reign supreme. The thought is embodied in any number of Federal and State statutes; sometimes in State constitutions. The pendulum has now swung to the other extreme, and it seems to be the dominant opinion of the country, at least in many important and influential quarters, that our transportation salvation lies in the way of widespread, radical, and almost revolutionary consolidations of railway properties. In 1920 the commission was of the view that the former opinion of the country was unfounded in many respects and that the door should be opened to many consolidations or unifications which were then made impossible by restraining State or Federal laws.

"We so recommended to Congress and submitted a draft of legislation which would accomplish this purpose and which was similar in many respects to the bill which we now submit. We went no further then, however, than to express the opinion that the door should be opened. Nor do we believe that it can be demonstrated except as the result of actual experience. We have an impression that there has been a tendency to exaggerate the possible economies and other advantages of great consolidations, and we have been strengthened in this impression by the evidence which has been brought to our attention in connection with the unifications which we have been asked since 1920 to approve. We think that the country ought not to be led into the belief that great consolidations of railroad properties involve any probability that the general level of freight rates may thereby be substantially reduced.

"Economy and efficiency of operation are much more than a matter of size. There are small railroad companies which are as economically and efficiently operated as any of the great railroad systems. It still remains a question how far a single management can with advantage be extended over railway lines.

#### COOPERATION

"It is quite possible also that the idea of cooperation deserves as much emphasis as, and perhaps more emphasis than, the idea of widespread consolidations. \* \* \*

(Cites improvement of service and absence of congestion due to car-service division of American Railroad Association with aid of bureau of service of commission; cooperation with shippers through advisory committees; experiments by carriers in cooperation with employees. Further field for cooperation in terminal operations.)



"In this connection it should not be forgotten that railroad competition often involves a waste for which some one must pay. To what extent this waste is compensated by advantages in other directions is a question still open to debate. Other fields of cooperation which may be fruitful of good results, but as to which there is still a wide diversity of opinion are the pooling and the standardization of railroad equipment.

## CAUTION IN PROCEDURE

"We do not wish it to be understood that we see no profitable advantages or benefits in the further consolidation or unification of railroad properties. On the contrary, we are firmly persuaded that such consolidations or unifications may often be most desirable. We do not believe, however, that anyone now knows how far the process may be carried with advantage or, indeed, without positive disadvantage. Our judgment is that the country ought not to be rushed headlong into any gigantic plan of consolidation which may later prove to be ill-conceived and based upon mistaken premises, but that it ought, instead, to proceed cautiously without any undue anticipation of possible beneficial results, feeling its way along, step by step, watching and analyzing results, and allowing experience to guide. A very important matter which ought not to be lost sight of is that it is not at all impossible to effect consolidations with a prodigality of expenditure or incurred liabilities that will nullify all good results. There have been many instances of this kind in the past. If this is to be avoided, constant vigilance and close supervision are necessary.

## SENTIMENT FOR CONSOLIDATION ARTIFICIAL

In his partial concurrence filed with the plan of consolidation of the commission December 9, 1929, Commissioner Eastman said (159 I. C. C. 555):

"Such sentiment as appears to exist in favor of the consolidation of railroads into a very few great systems is, I believe, largely artificial. According to my observation, there is very little sentiment of this kind among either shippers or railroad officers. For the most part, I think that it emanates from financial circles which are likely to reap large profits from the mere process of putting the roads together. Furthermore, there is reason to believe that the country is becoming considerably alarmed by the progress of consolidations and unifications among industries in general. It is feared that control of industry is rapidly passing into a few hands, with the danger that we shall become predominantly a nation of clerks and subordinates. Perhaps this process is inevitable in some lines of industry, and it may eventually be the fate of the railroads. But there is so much doubt about its wisdom that I see no reason for accelerating the process in the case of the railroads. There are strong grounds for belief that the best results in operating efficiency and service are secured when a railroad system is small enough

so that the executive can maintain something like personal contact with the employees all down the line and also with the shippers in the territory served."

Hon. FRANK McMANAMY, chairman, in his concurrence, said (159 I. C. C. 595):

## CONDITIONS PROMPTING CONSOLIDATION PROVISIONS

"The purpose of the consolidation provisions can not be clearly understood without considering the conditions under which they were passed. For 26 months the railroads had been under Federal control and were about to be turned back. Ten of those months were war months, during which the railroads were intensively used. For about six months following the war during the return of the troops they were also fairly busy. Then traffic fell off and both the railroads and the public became intensely concerned as to the future of the transportation system of the country. Due to increased operating expenses without a corresponding increase in rates, many railroads were bankrupt, or nearly so, when taken over by the Government. Rates had not been adjusted to fully meet increased costs and it was generally conceded that without substantial increases in rates private operation could not succeed. There was general apprehension that the transportation system of the country would not be able to function efficiently, if at all. Out of this came the consolidation provisions of the act. What followed? When the roads were turned back this commission, under the authority conferred by the law, took steps to provide increased revenues. Relief was provided in extreme cases by funds appropriated for that purpose by Congress. The railroads came through the readjustment period following the war in better shape than any other major industry, and to-day they are in far better shape financially and physically than at any period in their history. The point I am leading up to in this brief reference to conditions surrounding the birth of the consolidation provision is that I doubt if anyone will contend that under present conditions the consolidation provisions would have become a part of the law. Transportation conditions would not have justified it.

## PRESENT SITUATION OF RAILROADS

"What is the situation now? Never have the railroads, collectively or singly, been in as good condition physically and financially as they are at present. The weak lines—that is, those which actually need help—can be counted on the fingers of one hand. Equipment is ample, and our inspectors show it to be in better condition than ever before, and improvements are going steadily forward. Safety devices are being installed at a rate never before even considered. Orders for new material and equipment are sufficient to cover anticipated needs. There has been no car shortage for more than five years. Up to the time

of the recent Wall Street debacle, carloadings were making new records almost every week, not spectacular, but a steady increase. The grain crop, large as it was, moved in one month less time this year than last. Net ton-miles per mile of road per day, gross and net trainloads, gross ton-miles per train-hour, net ton-miles per car day, cars per train, and other operating records by which efficiency is measured are all better than ever before recorded.

"Service to the shippers has never been so satisfactory. Car-miles per car day are the highest on record and a new record of average speed of freight trains has just been made. Dealers are said to be carrying smaller stocks than ever before because they can renew without delay. The principal complaint shippers now have is with respect to the level of the rates, and improved service is steadily robbing that complaint of its force. In view of the conditions above described the question naturally follows, How will public interest be promoted by the creation of such huge systems as are here proposed?

#### ORIGINAL PURPOSES OF CONSOLIDATION

"My conception of what Congress had in mind is, first, that short lines should be changed from independent separate lines of railroad into branches of trunk-line systems thereby providing necessary equipment, facilities, and funds to assure continued operation of these very important and necessary parts of the transportation machine; second, that weak lines should be consolidated with stronger trunk lines, thus assuring continued life and usefulness for the weak lines; and, third, that the public should have the benefit of whatever increased efficiency and economy might result from single instead of multiple line hauls. Beyond this, consolidations may profit those whose chief functions are to reorganize the corporations and market the securities, but certain it is that the public will not benefit thereby."

Mr. R. C. Fulbright, representing the National Industrial Traffic League, testified at several hearings. At the hearings on S. 1870 (1926) (p. 90), he said:

#### WEAK-LINE PROBLEM DOES NOT REQUIRE WHOLESALE CONSOLIDATIONS

"I do not believe that the weak-line problem of this country is sufficiently large to warrant a physic given to the entire railway system of the country. There are many of these weak lines; they may call them weak lines, short lines, that really after all were just plant facilities. A mine or a lumber company builds a road out to its timber reserves and it gets out its timber. It is incorporated as a railroad so it can get a division. And when they get all that lumber cut out, why they would be very glad to have some line come on and take them over, unload it on the public. \* \* \* Our plea to you is to

let the natural economic laws take their course in the development of the transportation systems in this country. It has done it in the past. Every great system in this country is but a development of numerous smaller lines. And we believe that as the time goes on that will be the case. And there is no immediate demand to-day for any wholesale revulsion of these principles that we have stood on. \* \* \* We are opposed to Congress adopting as an affirmative policy a statement of policy that the railroads of the country should be consolidated into a limited number of systems. Your policy should be to leave the door open so that under the jurisdiction of the Interstate Commerce Commission, whenever it is found to be in the public interest and not to unduly lessen carrier competition, they should authorize these consolidations, not in this limited way you have provided in section 5, paragraph 2, but in a full measure. An actual consolidation as mentioned by Commissioner Hall."

He stated his belief that many weak-line problems, especially where roads have been built into unprofitable territory, could be worked out by applying differential rates until the country is built up.

#### PRESENT LAW UNWORKABLE

Testifying at the hearings on S. 1175 (1928), Mr. Fulbright said:

"We are entirely in accord with the statements made by Commissioner Hall that the present law with respect to consolidations and acquisitions of control is unworkable and that there ought to be substituted for it a statute which will provide the machinery for an adequate procedure in bringing about such unifications or consolidations as may, under certain principles, be found to be in the public interest. We think that ought to be done without further delay" (p. 142).

#### SHIPPING INTERESTS DO NOT BELIEVE LARGE PROGRAM OF CONSOLIDATION NECESSARY

"The bill which you have before you has been formulated by the law committee of the Association of Railway Executives. On the whole, the general machinery of the bill, I think, is admirably conceived and admirably stated, and something along this line ought to be done. We want our position clear on that, but I also want to make it clear that the shipping interests in this country do not believe that consolidations are necessary. We do not believe that it is necessary in order to have an efficient functioning of our transportation machinery that there should be any large program of consolidation, and we do not believe that Congress should go further than to make a permissive plan under which these carriers may get their properties into better balanced systems as they see their needs. Consolidation is primarily a problem for financing a railroad property" (p. 143).

## WEAK-LINE PROBLEM EXAGGERATED

Continuing his discussion he said (p. 151 et seq.):

"Now, this question of preservation of consolidations and the policy that has been referred to in the previous testimony before you largely emanated from Senator Cummins, whose memory we all revere. The thought was that there were numerous weak lines that were incapable of continuing to serve the public unless some stronger lines should take them under their wings; and there were three or four provisions placed in this 1920 transportation act having in mind bringing about such a result; i. e., having the weak lines taken over by the stronger lines.

"One, for example, was the provision by which the commission had broad powers of readjusting divisions between railroad lines. Another was a provision in section 15a, the leveling process prescribed under section 15a, and a third was in this devising of a plan which should take into consideration all of the short and weak lines and take care of them.

"I wish to state at the outset that the short and weak line is a popular theme. Many tears have been shed about the short and weak line, but the problem has been grossly exaggerated, as Mark Twain remarked about reports of his own death. With all due respect to Senator Cummins, he reached his conclusions, as his testimony shows, from going over the numerous reports filed by the railroad corporations without going back of them to see whether or not this or that railroad corporation was, in fact, a part of some major system; and he reached the conclusion, and stated before this committee some two years ago, that there were approximately 60,000 miles of lines in the United States that were not and could not reasonably make a compensatory return unless there was some help. His statement had appended to it a detailed check of a number of these railroads which had not for three years earned 3 per cent; and those were the short and weak lines.

"After Senator Cummins made public this list I took it up with him and gave him an analysis of some of them, and I hope I may be permitted to refer briefly to the analysis which I furnished to show that he was concerned over a lot of railroads that, according to his own statement, did not need succor."

He then enumerated roads with an aggregate mileage of 12,435 miles out of a total in their group of 15,342 miles, which had been classed by Senator Cummins as weak roads, but which were in fact subsidiaries of strong systems.

"\* \* \* Now, we say there are many benefits that can come in strengthening a financial structure through consolidations. We do not take issue with the railroads on that. We think those problems as to what they mean can be worked out. The only issue we have is that in the working out of these plans when they come before the commission, competition shall be substantially preserved. \* \* \*

"So I do not think we ought to consider that bringing about consolidations into a few systems is such a major problem of this country. Of that small remaining group, the small remaining group that Senator Cummins listed, there is a substan-

tial number of lines that were plant facilities pure and simple in their construction, and that has been the major purpose of their existence. \* \* \*

"Mr. THOM. You were speaking about something not being a major problem. You meant the weak line?"

"Mr. FULBRIGHT. Yes.

"Senator COUZENS. You also meant that consolidation was not a major problem, did you not?"

"Mr. FULBRIGHT. I do not think that consolidation is such a problem that Congress should say that there should be consolidations. The shippers do not say that there should be consolidations. They say that consolidations are not going to reduce our freight rates. It will accomplish certain things for the benefit of the man who owns a particular railroad; and, therefore, we think there ought to be a permissive system, and we think that permissive system should carry with it a machinery and the machinery devised in this bill, as I stated previously, is an admirable piece of work in that respect. We think Congress should put it through without delay. But we do not want to face the possibility of the thing happening that is to-day happening under paragraph 2 of having railroads put into one without regard to competition in this country. This situation, we think, is important to correct through legislation.

"Mr. THOM. May I ask a question, Mr. Chairman?"

"Senator COUZENS. Certainly.

"Mr. THOM. I think some confusion is arising as to the position of the shippers as it has been presented. My understanding of your statement of what the shippers consider to be of public interest is that a way should be provided of a permissive character whereby proper consolidation shall take place.

"Mr. FULBRIGHT. Most emphatically we do want that done and we want it done at this session of Congress if it can be done.

"Mr. THOM. You were stating of certain things being major problems. You were not speaking of consolidation not being a major problem, but of the short or weak line?"

"Mr. FULBRIGHT. I think it is a major problem for this committee to provide machinery in order that permissive consolidations may be accomplished when they are in the public interest. I do not think there is anything you can do that is more important just at this time than to work this out."

## UNITED STATES CHAMBER OF COMMERCE—NEGATIVE ARGUMENTS:

The negative arguments submitted by the United States Chamber of Commerce with its referendum of March 22, 1924, enumerated the following objections to a policy of consolidation (p. 254-255 Hearings H. R. 11212):

There should be no relaxation of the rule that competition must be fully preserved, and in no case should consolidation of parallel competitive lines be allowed.

No general redistribution of railway properties can be brought about without changing seriously the existing routes and channels of trade and commerce.



It is impossible to rearrange the railway properties so as to produce systems of equal strength, operating at the same cost, and earning the same rate of return. The larger the proposed systems, the more difficult it will be to equalize these factors.

No important economies of operation can be brought about by consolidation. On the other hand, looser supervision will probably increase operating costs.

A few great railway systems will produce an undue centralization of power in a few hands. Commercial development will be largely controlled by a small handful of railway magnates.

Great systems, 20,000 miles and over, if financially successful, will be powerful, arrogant, and indifferent to shippers' needs.

Such systems, if not successful, will produce a far more serious problem than any we now have. There will then exist no power but the Government adequate to take over such properties.

The plan is nothing but gigantic experiment of doubtful results. The promise of benefit is vague and uncertain; the probability of injurious results is great.

There is no sufficient information available for undertaking the consolidation of railways upon a wholesale scale.

#### MINNESOTA MEMBERS OF THE HOUSE:

At the hearings on S. J. Res. 161 (71st Cong., 2d sess.) the Members of the House from Minnesota filed the following statement in support of that resolution (p. 22):

"The said Members favor said resolution on the following, among other grounds, to wit:

"1. That the merger of two or more railway properties will provide no benefit to shippers, and no evidence has been given to the country that such mergers will result in a reduction of rates or other benefits to the public.

"2. That, in our opinion, the consolidation of any two or more railroads at the present time is immature and against public policy, and especially immature for the reason that no definite plan for the unification of the many railroad systems within the United States into unified and limited systems has been submitted by the Interstate Commerce Commission in accordance with paragraph 4, of section 5, of the transportation act of 1920.

"3. That no consolidation or merger of any railways into one unified system is practical at the present moment for the reason that the Interstate Commerce Commission has not now prepared and submitted to the country a valuation of the various railroad systems in conformity with the recent decision of the United States Supreme Court in the O'Fallon case, as contemplated by subsection B of paragraph 6, of section 5, of said transportation act.

"4. That the consolidation contemplated in the application by the Great Northern and Northern Pacific Railway Cos., as now before the said commission, will result in a distinct reduction in the number of employees of said two railways, and further emphasize the present distressful unemployment situation, with resulting distress to a great number of families of such em-

ployees, and which will have the same results in the consolidation of all other railways.

"5. That by the said proposed consolidation, many communities will be adversely affected in the reduction in the number of division points of said railways and in the elimination and abandonment of many railroad shops and other railroad activities, with a resulting and drastic reduction in the value of private property, in the value of property of those who have in good faith on the strength of such industry invested their capital in business enterprises and in the construction and purchase of homes by employees, both of said railroads and in other enterprises, in the belief that said division points and shops and other railroad activities were and would remain permanent in character.

"6. That in order to effect such consolidation, new corporations will be organized in the nature of holding companies to control said consolidated properties, that said corporations will be organized under the laws of State and States foreign to the locality within which such consolidated railroad will be operated, and to deprive State authorities from the exercise of any authority over said consolidated railroad properties and will deprive the States of their right and power in the matter of taxation of said property in the individual owner of the stock thereof for income and inheritance tax purposes.

"7. That by said consolidation there is no assurance given to the public of any reduction in freight and passenger rates and corresponding benefit to the public.

"8. That transportation service under said proposed consolidations will be seriously impaired by the reduction in the number of trains and in the elimination of railway shops and other institutions incident to railway-transportation service.

"9. That said proposed consolidations will result in no beneficial service to either the general public or to the public immediately served by the railway system so proposed to be consolidated.

"10. That the antitrust laws heretofore enacted to protect the public from the severity of monopolistic ownership, and which laws have proved their usefulness in retaining competitive conditions, will be seriously impaired if not actually made nugatory.

"11. That in the enactment of the transportation act of 1920, it was, we contend, the intent of Congress that that act in its operation was limited to the consolidation of continuous railway systems, and it was clearly the intent of Congress not to permit the consolidation of parallel and competing railway lines or systems.

"12. It is an established fact that an emergency situation now exists in the matter of proposed consolidation of many of the competitive railway lines throughout the United States, and that there is imminent danger that unless this resolution is promptly adopted, that such consolidations will go forward and obtain the sanction and approval of the Interstate Commerce Commission.

"13. We further contend and respectfully submit to your committee that no application for the consolidation of two or more railway systems should have the approval of the Interstate Commerce Commission until complete and comprehensive plans for the consolidation and unification of all railway systems in the country have been completed in order that a symmetrical structure may be had, and the total number of consolidations and unifications be in the interest of the entire American people."

Hon. CHARLES WEBSTER, chairman Iowa Railway Commission (Hearings S. J. Res. 161, (1930) p. 239):

"My understanding of the transportation act is that it was passed for the primary purpose of enabling absorption by strong roads of the weaker and not of other strong competitive roads, largely parallel with their own lines.

"If the necessity ever existed for the wholesale consolidation of railroads, I do not believe it exists now, especially in view of the manner in which the American Railway Association functions. The wholesale consolidation of railroads would make their operation, in my opinion, unwieldy and would throw thousands of men out of employment and possibly ruin many cities and towns that have been built up under the present arrangement. It would not reduce rates, according to testimony in the original proceeding before the Interstate Commerce Commission.

"The Interstate Commerce Commission, of course, was commanded to prepare a plan and it has done so to the best of its ability; and this is not intended to criticize its action."

The foregoing expressions of opinion have been given under the head "Reasons for consolidation." Closely connected is the subject:

#### ADVANTAGES OF CONSOLIDATIONS

Hon. HERBERT HOOVER, Secretary of Commerce (Hearings S. 2224 (1924), p. 17):

#### ECONOMY IN OPERATION

"The third group of major reasons for consolidation, and one that perhaps has been unduly emphasized, is the economy in operation. There would be undoubted economies, not so much in overhead as in the better handling of traffic, and better utilization of common terminals and other facilities, the wider use of home cars, more direct routing, and more universal standards and cheaper maintenance of equipment. A large problem in this connection is the consolidation of freight terminals, to which the first contribution must be the consolidation of systems which utilize the broadening or consolidation powers.

"Now, aside from railway rates, there are many charges which can be saved to the shipper in better terminals, for the delays in discharge and loading, etc., are all costs, sometimes greater than the railway charges themselves."

Senator CUMMINS, on the question of economy in cost of operation as a result of consolidation, said (p. 73, Hearings S. 2224 (1925)):

#### ECONOMY OF OPERATION NEGLIGIBLE FACTOR

"I would like to say at this point that as the author of the bill the saving in the cost of operation was a negligible factor in my mind. There is a great difference of opinion with regard to the saving that could be effected. Some experts say we could save from three hundred million to five hundred million dollars a year; others say the saving would be very small. That was not my purpose in introducing the bill and seeking the consolidation. The whole purpose was to keep the railroads of the country running at the lowest practicable rates of transportation. It was introduced because I believe that if there be not a consolidation there are just two alternatives—a large part of the railways of the United States must be abandoned, or the Government must take charge of the transportation system and operate it at the public cost.

"The CHAIRMAN. You are attempting to get rid of the difficulties now involved in the recapture clause?

"Senator CUMMINS. The recapture clause, so called, was put into the transportation act as a makeshift—as a stop-gap. It was put in because it seemed to be necessary to do it pending the consolidation, which I have always hoped would be brought about and which, once effected, would make unnecessary entirely the so-called recapture clause.

"The CHAIRMAN. In other words, a system could be so constructed that the sparsely settled and weak communities could be served by the other portions of the community within that system that would have an excess, and it would all come under the same system, two or three lines being made one.

"Senator CUMMINS. Precisely. I want to say frankly that if this bill is to be voted up or voted down on the basis of saving that would be effected by consolidation in operation alone, I have not sufficient basis for urging it, and I would like to hear the discussion go forward upon the other lines, the necessity for consolidation, in order to preserve to the people of the country an effective railroad service, without passing that service into the hands of the Government."

Mr. ALFRED P. THOM:

#### DIFFERENCE OF OPINION AS TO ECONOMY

"I would not be frank with the committee if I did not state that a good deal of expert opinion among railroad people is to the effect that the idea of economy can be overestimated as a cause for consolidation. There is a difference of opinion among men on that subject." (Hearings S. 2224 (1925), p. 67.)

## PROBABLE ECONOMIES

1. With number of roads in a single system, probably possible to discontinue some service on useless lines furnishing a duplicated service.
2. A given system will be able to do business on its own lines by shorter hauls and have choice of routes.
3. Opinion of railway men that there will not be much saving by decrease of labor.
4. Probably saving by purchases on larger scale, and larger carrier could borrow money on better terms. (Hearings S. 2224, p. 68 et seq.)

## ADVANTAGES OF CONSOLIDATION ASIDE FROM ECONOMIES

1. Solution of weak road problem and creation of self-supporting systems.
2. Sustained earning capacity of these systems and better credit.
3. Strong instrumentalities throughout system, so public can insist on adequate service, instead of some weak lines with inadequate service.
4. Greater facility in distributing traffic and avoiding congestion.
5. Larger variety of traffic available to larger system, with result that revenue burden can be better distributed. (Hearings S. 2224, p. 80 et seq.)

Repeats statement that some economies might be exaggerated. Economies effected:—Use of most direct route. (Hearings S. 1870, p. 151, et seq.)

Large systems will be handled by decentralization of management, elimination of switching, standardization of materials, concentration of purchases, sending of traffic by shorter routes, and elimination of interline accounting.

Greater ability to utilize shops and equipment on all parts of system to maximum extent.

Freight cars of system will be "at home" on all parts of system so can be put in service without limitation and can be fully repaired where they are.

Reduction of number of systems will result in reduction of number of executives and result in easier obtaining of uniform policies and simplify dealing of roads with each other.

Simplification of regulation by Interstate Commerce Commission with smaller number of systems. (Quoting from article by Walker D. Hines, p. 154.)

(This article was written by Mr. Hines for the Harvard Business Review, July, 1923, under the head of "The relationship of the Burlington-Great Northern-Northern Pacific group to the Federal railroad consolidation law.")

Mr. BEN B. CAIN, General Counsel, American Short Line Railroad Association:

Importance of consolidation—

Making short or weak line part of larger systems permits improvements in system which can not be afforded by weak road. Saving in operation of full trains and full power.

Fluctuations in earnings of short lines avoided by incorporation in larger systems. (Hearings S. 1870 (1926), p. 293, et seq.)

Dr. C. S. DUNCAN (Hearings H. R. 11212 (1926) pp. 36-39):

## ECONOMIES

"There have been claims and counterclaims with respect to the possible savings which may be realized through a system of consolidations. There is no agreement among students of the question with respect to this matter. As indicated before, the consolidations which have taken place in the past admittedly gave to the public a superior quality of service at lower rates.

"How much further we can go in realizing economies from large-scale production of transportation service is an open question. Here again is the individual case for individual analysis and study.

"The possible sources of savings through consolidating railroads into large systems, which have been touched upon by those who have discussed the matter, may be enumerated as follows:

"First. A small amount of savings may be possible in overhead expenses or in superintendence. No one here claims any substantial or important reduction in expenses and some claim that there is no possibility of savings at all.

"Second. There may be savings in interline accounting. There is more general agreement that a saving worth while may be had from centralized accounting on a large system, as contrasted with a number of independent accounting systems, where organization duplicates organization, and also by a reduction in the actual need of accounting from interchange of traffic.

"Third. Attention has been called to the possibility of saving in printing where all of the printing is done by a central management for an extensive system, rather than by individual companies that may constitute that system.

"Fourth. It is suggested that there may be savings in tariff publications. This would be an avoidance of duplicate tariff publications for each of the constituent companies.

"Fifth. Reference is frequently made to the possibilities of savings in the purchases of materials and supplies by buying larger quantities than would be needed by the individual smaller constituent companies.

"Sixth. Some think that through a standardization of methods and practice, and equipment, machines and parts, some savings may be realized by a large system that would not be possible to the constituent companies of that system.



"Seventh. It is quite generally agreed that there is a possibility of saving in many cases by fewer and larger repair shops, which would be possible on a consolidated system and not possible on the lines of the constituent companies.

"Eighth. It is further suggested that possibly a large consolidated road could make more economical use of equipment than could a number of small constituent companies, due to the fact that every road must have different types of cars to handle peak loads of commodities demanding special types of cars, and that a small road would not have sufficient traffic, or sufficiently diversified traffic to make the most efficient use of all the required equipment.

"Ninth. There is also the saving from a more direct routing of freight, where a consolidated system absorbs a more circuitous but parallel line. The use of the direct line for commodities demanding fast service, free from the possible obstruction of slow freight which may be directed by a more roundabout route, will be possible in the consolidated systems of these carriers.

"Tenth. Where a system is sufficiently enlarged through consolidation, there may be an advantageous enlargement and improvement of terminals with certain resultant savings in terminal operations.

"Eleventh. Mention is also made of the possibility of eliminating unnecessary duplicated service which is now afforded the public by a number of independent companies that might be brought under a single concentrated management and the public might be more efficiently served with fewer facilities.

"Twelfth. Another source of possible saving is pointed to, where there is an opportunity for the merging parallel lines into a single consolidation, and the using of these parallel tracks in lieu of double tracks, without further duplication of facilities and additional capital expenditures, with certain resultant savings in operation."

#### GENERAL ADVANTAGES OF AND REASONS FOR CONSOLIDATIONS

"First. Progressive development in consolidating railroads has been a continuous factor in railroad history and is, therefore, no new thing.

"Second. Further progress has been for some years retarded by the Sherman antitrust law and the Clayton Act, and even under the transportation act progress has been impeded by the requirement of an artificial program and by the lack of legislative machinery to bring consolidations into effect.

"Third. Public opinion, as shown by the acts of Congress and the repeated messages of the President, has apparently indorsed the principle of such further consolidation as may be justified by the advantages to the public in the way of superior service at the lowest cost commensurate with adequate returns."

Mr. ROBERT S. LOVETT, chairman of the board of directors of the Union Pacific Railroad Co. (Hearings H. R. 11212 (1926), p. 76 et seq.):

#### ADVANTAGES OF CONSOLIDATIONS

Believes that extension and development of railroad systems will prove greatly to the public benefit in many ways such as simplifying corporate organization, bettering financial arrangements, improving service, effecting economies, in caring for the weak lines obtainable at a fair price, and in various other ways.

#### SAVING IN EXPENSES EXAGGERATED

Believes that the saving in expenses has been greatly exaggerated in the public mind. Some reduction in competitive soliciting agencies. Saving in consolidation of accounting offices will not be large. Weak lines generally operated without regard to union rules, regulations or rates of pay. When strong line acquires such road, it is obliged to extend standard union rules and rates of pay, with result of immediate jump of operating expenses.

#### CONSOLIDATIONS BENEFICIAL BUT WILL NOT SOLVE RAILROAD PROBLEM

"So I say that while consolidations will be beneficial they will not solve the railroad problem. That will be with us until the public realize, as they are coming to realize as never before, that the railroads of this country are with rare if any exceptions honestly and efficiently managed to perform the best service they can give the public with the means at their command; that all their operations are under the closest scrutiny of Government officials to protect the public interest; and that the only possible way for the public to obtain adequate and satisfactory railroad service is to treat the railroads and railroad investors fairly and allow them to operate in a friendly atmosphere at rates sufficient to provide the service and pay a fair return upon the capital represented by the railroads" (p. 77).

#### ECONOMIES OF CONSOLIDATION NOT SUFFICIENT TO REDUCE RATES

"Mr. NEWTON. Judge, ever since the passage of the transportation act, or almost since that time, there has been a good deal of talk from the public platform every now and then, but more from the newspapers and magazines, advocating the consolidation of railways of the country; and it has been claimed that one of the great benefits flowing to the general public from a general consolidation would be the resulting economies which would bring a reduction in freight rates. Now, I take it from your statement that you do not believe that there would be any great economies effected and, consequently, no resulting reduction in the freight rates. Am I correct in that?"

"Mr. LOVETT. I think you are. There would be some economies, of course, in consolidation; but they would be offset in many instances by additional expense, so that on the whole I believe the amount that will be saved from consolidations has been very much overestimated. I do not believe, answering your question more directly, that the economies will be sufficient to justify a reduction in the freight rates under conditions heretofore existing" (p. 77-78).



## BENEFITS—IMPROVEMENT OF SERVICE—STRENGTHENING EXISTING SYSTEMS—BETTER FINANCING

"Mr. HOCH. If no great economies are to be expected through consolidation, the only reason for consolidation advanced so far that I have heard, so far as the public interest is concerned, is to meet this so-called problem of the weak lines. Is there any other great or primary reason for consolidation that you have to suggest to us?"

"Mr. LOVETT. I believe that service would be considerably improved by consolidations, particularly with respect to the weaker lines. I think also another very desirable result would be that it would simplify and strengthen existing systems, to which there is no objection at all, in their organization and better provide for financing their requirements.

"That is, if various subsidiary companies that are without credit of their own and are dependent upon their relationship to the parent company for credit, could be absorbed by the parent company, not necessarily by consolidation, but by the purchase of their railroads with their appurtenances and assume their obligations, the credit in that situation would be considerably improved; better selling securities could be issued.

"Mr. HOCH. In so far as the strong lines themselves are concerned, is there anything in consolidation that would promote the service so that the public would get better service?"

"Mr. LOVETT. I do not know of anything as to those particular lines but as to lines they might acquire.

"Mr. HOCH. Yes. And the improvement in service is to be expected solely upon those lines that are so-called weak lines and unable under present conditions properly to finance themselves?"

"Mr. LOVETT. Well, improvement in service in those instances should be expected, but I believe everybody will agree that a great improvement in service has resulted from the extension of the existing systems from what they were in former years. I am not speaking particularly of competing systems, the consolidation of directly competing lines, but of the extension of existing systems, where that is possible. I believe that would result in an improvement in service without reference to weak lines" (p. 80).

Mr. A. H. HARRIS, vice president New York Central Lines (hearings S. 1870 (1926), p. 241, et seq.):

Economies of New York Central consolidations.

Lake Shore consolidation. Not possible determine exact savings.

If consolidated Big Four, Lake Shore & Michigan Central with New York Central, could finance company as unit. Better flexibility in routing, because now must protect rights of Michigan Central to protect its stockholders, where if under one ownership could route as most advantageous.

Advantages large machine shops and repair shops at one point serving number of roads instead each road having its own.

Mr. DANIEL WILLARD, president Baltimore & Ohio Railroad Co. (p. 164, hearings S. 1175 (1928)):

## CHIEF ADVANTAGE UNIFIED STRONG SYSTEMS

B. & O. originally 154 separate companies, now reduced to about 40, and these so unified and brought in that only three companies that make reports to Interstate Commerce Commission.

All but one of these companies consolidated prior to the passage of the transportation act.

"Senator SACKETT (p. 176). Do you think the chief advantages of consolidation lie in economy of operation?"

"Mr. WILLARD. No; I do not. Regardless of the economy, and I think that it will be very great, I think the chief advantage is that the public, we will say, gets to-day by having a combined New York Central Railroad instead of 15 or 20. You could not conceive of the Twentieth Century Limited operating as it does with dependability and safety over a dozen or a half dozen independent lines. Now, certainly that is a good service for the public. The public shows that by the way it patronizes it. The freight service is certainly more dependable and prompt over lines of that kind.

\* \* \* \* \*

## TOO MUCH EMPHASIS ON WEAK LINES

"The CHAIRMAN. Of course, his (Senator Cummins) great theory in the whole was a system of consolidation to take care of the weak lines. I have heard him say that he did not think great economies could be effected. I am very glad to have your opinion on that, Mr. Willard.

"Senator SACKETT. Mr. Willard's opinion is quite different from what Senator Cummins gave us as his opinion.

"The CHAIRMAN. Largely it was to save weak lines.

"Mr. WILLARD. I think too much emphasis has been placed upon that, because I do not think the condition of the weak lines is quite as serious as that might imply, even under existing conditions. To-day the Interstate Commerce Commission has authority to fix division of rates between main lines and weaker lines and in a large measure can take care of them; but it is a fact that those smaller lines, and the C. I. & W. is an evidence of that kind of a line, put in with the stronger line like the Baltimore & Ohio can be better maintained and give better service to the public than it can all alone.

"The CHAIRMAN. Of course, those weaker lines are not so weak as they were five or six years ago.

## CONSIDERABLE ECONOMIES BUT AMOUNT EXAGGERATED

"Mr. WILLARD. No; I would not like to have it thought—and if I gave that impression I would like to correct it—that there are no economies to be realized in an operating way from consolidation. I think there will be very considerable econo-

mies, but I think the amount has been greatly exaggerated in so far as I have seen from time to time.

"Senator FESS. Senator Cummins had the idea also, which seems rational to me if it can be worked out, that while there is no hope of a general reduction of freight rates under the present cost of operation, if there could be a revision of the rate structure where an agricultural line might be attached to a line that is not agricultural but carries combined freight, there is the possibility of such revision lowering the rates on a road which is purely agricultural of itself. The Senator had an idea that that could be done.

"Mr. WILLARD. Where there are such circumstances as you relate that could be done. Unfortunately there are not so many of those. But the commission has a remedy for that that it does not hesitate to apply, and that is changing the divisions of the rates. Where two carriers participate in the haul the commission can adjust that so that the carrier that is earning much from the more profitable business can be required to carry at less rate and let the other road have the advantage."

HON. HENRY C. HALL, member Interstate Commerce Commission (hearings S. 1870 (1926), p. 96 et seq.):

"Consolidation can produce very beneficial results, but I should not put as the first of them the reduction of rates, although proper consolidations ought to tend in that direction.

#### SUMMARY CHAMBERS STATEMENT OF ADVANTAGES

"I am allowed to present to you some reasons for consolidation, and you will note, as I read them, that the reduction of rates is not at least an outstanding feature. These are the reasons which have been supplied me by a very experienced man who has spent his life in railroad work and who was very active in the Railroad Administration during the time that our railroads were under Federal control. They were not prepared for me; they were prepared, as I understand, for consideration by his own railroad. I am referring to Mr. Edward Chambers, of the Santa Fe. [Reading:]

"(1) Maximum tonnage and mileage which may properly be placed under control of single organization.

"(2) Reasonable competition in the different sections to help the accomplishment of satisfactory service, efficient and economical operation, and other things which come from competition.

"(3) Ability to give regular, adequate, and satisfactory service to the public.

"(4) Each system in one territory connected up directly with each other system in the other territories.

"(5) Each system with one or more Gulf, ocean, or Lake ports may reach any other port or the same port through connection with single system.

"(6) Maximum distribution of products originating in one system to destination on same system and minimum number

of railroad systems for products to move over in reaching final market.

"(7) Western grain-producing territory tributary to Gulf ports connected to these ports and Lake ports and to primary markets by a single system and may reach Atlantic ports through one connecting system. Grain shipments originating on other systems either reach Gulf ports or Lake ports, or Atlantic ports direct or may reach them through one connecting system.

"(8) Fuel supply, both for railroad use and domestic consumption.

"(9) Ability to operate solid trains to and from large centers and important gateways and to have heavier car loading on less-than-carload shipments and more full carloads on less-than-carload traffic to single destination.

"(10) Car supply readily regulated because of the large number of cars necessarily on each system and the lesser number of railroads to be consulted about return of cars.

"(11) Tonnage of a character requiring special equipment sufficient to justify railroad owning adequate equipment to move the product to market.

"(12) Simplify the joint operation of terminals at large centers and have minimum number of junction points.

"(13) Simplify the movement of freight and passenger traffic and have minimum number of transfers and maximum operation of through trains, taking advantage of each opportunity to go around congested terminals.

"(14) Necessity for the pooling of equipment would be avoided because of the need for so much equipment on the large system, and the complication of returning cars to the owning line would be vastly simplified.

"(15) The larger system is usually in position to afford uniform service, because if a crop failure or other disaster occurs in one part of the system, things may be normal on other parts.

"(16) In forming systems the consolidation should be of complete railroads; otherwise means serious delay. It is best for many reasons not to separate a railroad built up as one. Some cases will be found where the situation would be improved by dividing a railroad, but it is best to leave such consideration to the consolidated organization.

"(17) Would simplify the handling of rate matters and printing of tariffs and the rate work before the Interstate Commerce Commission. Would reduce very much, also, the number of rate bureaus now in existence throughout the country and would simplify cooperation between Interstate Commerce Commission and the carriers, which is very necessary if the plan of Government regulation and private operation is to be successful.

"(18) Would enable the discontinuance of back hauls and permit hauling via most direct rails, and would enable the non-use of many junction points and permit the use of the most natural and economical junction.

"(19) Would enable the more regular and continuous movement of freight traffic, which would be very helpful to the shipper, and for which a demand is being made by shippers generally and which is bound to come into effect sooner or later.

"(20) Would simplify cooperation between railroads by the reduced number and make it possible for the railroads, through cooperation, to do things which are now impossible and which would be very helpful in economical and satisfactory operation."

"There are other advantages which might be referred to, but these are features which present themselves to a railroad man of experience and, as we all know, of good judgment.

"Senator CUMMINS. Well, the recitation of the various things that could be accomplished by consolidation would all be expressed in adequacy and efficiency of service?

"Commissioner HALL. I think so. That is, to my mind, Senator, the great desideratum and the thing that we may hope to see promoted by the process of consolidation.

"Senator COUZENS. It would naturally follow that rates would go down if all those 20 things are accomplished?

"Commissioner HALL. It would tend in that direction, but we ought not, I think—

"Senator FERNALD. You are not at all optimistic about that, Mr. Hall?

"Commissioner HALL. Well, I am not clear that the consolidation here would result in a reduction of rates."

Mr. R. C. FULBRIGHT (hearings, S 1870 (1926), p. 86):

#### SHIPPERS FAVOR VOLUNTARY CONSOLIDATIONS

"Our organization favors voluntary consolidations. We believe that by leaving the door open, at least for a period of years, we will have quite a development of consolidations of properties.

#### CONSOLIDATIONS DO NOT MATERIALLY REDUCE EXPENSES

"But we do not believe that consolidations will bring about all of the good results that are spoken of concerning it. As a matter of fact, it is our observation that consolidations do not materially reduce any operating expenses. The unit of operation of a railroad is the division, and a division has to have certain officers and certain servitors to perform its function. I saw a statement recently by no less authority than Mr. Hamilton, the editor of the Wall Street Journal, that should you reduce every salary paid by the Pennsylvania Railroad to a level of \$3,000 a year the amount saved would hardly warrant a wage increase to the labor employed by that road of 10 cents a week.

"There are some advantages of consolidation. The only advantage that may be considered to be of great public benefit is the advantage in getting into the consolidations properties

that are not in a position to provide themselves with adequate facilities. And that, as I understand it, has been perhaps the guiding thought behind the author of this bill."

Mr. DONALD R. RICHBERG, counsel for Railway Labor Executives' Association (hearings S. J. Res. 161 (1930), p. 245 et seq.):

#### ECONOMIES OF CONSOLIDATION DOUBTFUL—INJURIOUS EFFECTS

In Mr. Richberg's memorandum brief, he quotes the following from a publication of the National City Co. entitled "The Consolidation of Railroads":

"Is general unification desirable?

"(a) Resulting economies doubtful.

"Much has been written and said regarding the economies that may result from the wholesale railroad consolidation contemplated by the transportation act, in consequence of which it may be possible for the carriers to operate at lower rates and still receive an adequate return on the property value. Not only is there no certainty that a reduction in operating costs would follow as a result of such consolidation, but if it should mean some of the steps mentioned, such as the removal or readjustment of repair shops, change in division points, etc., wide dissatisfaction would be sure to follow, because unification in pursuance of a general consolidation plan would involve many changes in the duties and the home location of many of the 2,000,000 men and women engaged in the transportation industry of this country.

"It is conceded on all sides that at the present time our railroads are being operated with greater efficiency than at any time in their history, and there is no escaping the conclusion that this means that the vast majority of those engaged in the transportation industry have its best interests loyally at heart. Human nature being what it is, these workers hardly can be expected to show any great enthusiasm for unification that would mean disruption of their accustomed duties and home ties. The other residents of the communities affected also would be injured, involving in some instances the elimination of a community's sole means of livelihood.

"The late Sir W. M. Acworth, the noted British authority on railroad transportation and a close student of American railway problems, has said: 'In the United States your great systems are already so large that they have probably secured all the economies which are due to large-scale production. Their equipment is standardized, their division points conveniently arranged, their shops established at suitable centers, and the members of their headquarters staffs have each of them as much as they can do.'

#### WEAK LINE PROBLEM

It is clear that the primary purpose which Senator Cummins had in mind in fathering the consolidation provisions of the transportation act was to save the weak lines and short lines as essential parts of the transportation system of the country. (See p. 48 *supra*.)



The hearings before the committees of Congress, however, disclose some quite divergent views on this subject. It will be noted that while the representatives of the short-line railroads have consistently supported the original theory, the tendency of the representatives of the larger roads has been to qualify any plan which might contemplate a compulsory acquisition of weak roads or short lines, because of the hesitancy of prosperous carriers to absorb unprofitable lines. These views appear to some extent in the quotations under the head of "Complete Plan of Consolidation" which follow, but are more fully set forth under this head.

BEN B. CAIN, vice president and general counsel American Short Line Railroad Association (hearings H. R. 11212 (1926), pp. 178 et seq.):

#### CAUSES OF WEAKNESS OF WEAK CARRIERS

Fundamentally weak because of lack of earning power.  
 Lack of earning power due to:  
 Lack of traffic;  
 Operating handicaps such as excessive grades, curvature, poor track, light equipment—all impossible to remedy without credit;  
 Some because unable to meet competition of strong roads or unable to procure from strong lines fair divisions of the revenues received from traffic jointly handled;  
 Short lines with limited haul suffer from growth of automobile competition.

#### PROTECTION AFFORDED SHORT LINES BY TRANSPORTATION ACT

1. Power of commission to establish through routes and joint rates.
  2. Power to prescribe rates so that carriers as a whole or as a whole in each of such rate groups or territories as the commission may from time to time designate, will earn an aggregate annual net railway operating income, equal as nearly as may be to a fair return upon the aggregate value of the railway property of such carriers held for and used in the service of transportation.
  3. To make an equitable distribution of the revenues derived from the rate level through divisions of joint rates so that each carrier will receive a fair return.
  4. To issue certificates to abandon a railroad or to build an additional railroad where the present or future public convenience and necessity permit of such abandonment or new construction.
- "The capstone to the structure is consolidation so that adequate transportation service may be procured for the country as a whole."

#### VIEWS OF SUPREME COURT AS TO THEORY OF TRANSPORTATION ACT

(From Railroad Commission of Wisconsin v. C. B. & Q. R. R. Co., 257 U. S. 563)

"Transportation Act, 1920, introduced into the Federal legislation a new railroad policy. Theretofore, the effort of Congress had been directed mainly to the prevention of abuses, particularly those arising from excessive or discriminatory rates. The 1920 act sought to insure, also, adequate transportation service. That such was its purpose Congress did not leave to inference. The new purpose was expressed in unequivocal language.

\* \* \* \* \*

"To preserve for the Nation substantially the whole transportation system was deemed important. \* \* \*  
 "Moreover, it was not clear that the people would tolerate greatly increased rates (although no higher than necessary to produce the required revenues of weak lines) if thereby prosperous competitors earned an unreasonably large return upon the value of their properties. The existence of the varying needs of the several lines and of their widely varying earning power was fully realized. It was necessary to avoid unduly burdensome rate increases and yet secure revenues adequate to satisfy the needs of the weak carriers. To accomplish this two new devices were adopted—the group system of rate making, and the division of joint rates in the public interest.

"Through the former, weak roads were to be helped by recapture from prosperous competitors of surplus revenues. Through the latter, the weak were to be helped by preventing needed revenue from passing to prosperous connections. Thus, by marshalling the revenues, partly through capital account, it was planned to distribute augmented earnings, largely in proportion to the carrier's needs. This, it was hoped, would enable the whole transportation system to be maintained, without raising unduly any rate on any line. The provision concerning divisions was therefore an integral part of the machinery for distributing the funds expected to be raised by the new rate-fixing sections. It was, indeed, indispensable.

"Raising joint rates for the benefit of the weak carriers might be the only feasible method of obtaining currently the needed revenues. Local rates might already be so high that a further increase would kill the local traffic. The through joint rates might be so low that they could be raised without proving burdensome. On the other hand the revenues of connecting carriers might be ample; so that any increase of their earnings from joint rates would be unjustifiable. Where the through traffic would, under those circumstances, bear an increase of the joint rates, it might be proper to raise them, and give to the weak line the whole of the resulting increase in revenue."



(From *Dayton Goose Creek Railway Co. v. U. S.*, 263 U. S. 456)

"The new act seeks affirmatively to build up a system of railways prepared to handle promptly all the interstate traffic of the country. It aims to give the owners of the railways an opportunity to earn enough to maintain their properties and equipment in such a state of efficiency that they can carry well this burden. To achieve this great purpose, it puts the railroad systems of the country more completely than ever under the fostering guardianship and control of the commission, which is to supervise their issue of securities, their car supply and distribution, their joint use of terminals, their construction of new lines, their abandonment of old lines, and by a proper division of joint rates and by fixing adequate rates for interstate commerce, and in case of discrimination for intrastate commerce, to secure a fair return upon the property of the carriers engaged."

#### IF SHORT LINES NOT SAVED BY CONSOLIDATION PLAN IS FAILURE

(Mr. Cain:) "I submit to you that if the 22,000 miles of short-line railroads, plus as much as 30,000 miles of permanently weak lines, such as the Minneapolis & St. Louis, the Kansas City, Mexico & Orient, the Missouri & North Arkansas, and others are not to be preserved, fostered, and made more efficient through consolidation, then the whole plan and purpose of the transportation act is a ghastly failure—nay, more, it is worse than a failure because it makes possible a worse situation than we would have if the law had never been passed. For example, first, it permits the strong line to procure control of other strong lines without any obligation to take the weak, or consider how such mergers will affect the weak. That is being done to-day under paragraph 2 of section 5, and will continue to be done, if you do not change this law" (p. 184).

#### DIVISIONS NOT EFFECTIVE

Claims divisions are not effective because granting of higher divisions to short line will result in routing of business over other roads (p. 183).

#### NECESSARY TO APPLY RECAPTURE PRINCIPLES AND ADOPT PLAN

"It is therefore necessary in the light of experience to fully apply the recapture principles if the purpose of Congress is ever to be accomplished, for I think it is as certain as anything can be that many short and weak roads will not be voluntarily absorbed by their stronger connections, hence they must have financial sustenance or cease to function. I am not able to see how the commission can intelligently and efficiently discharge its full duty of regulating interstate commerce with due regard to the general welfare without adopting some sort of plan. I do not mean by plan a map. I do not mean that it is necessary for the commission in the adoption of any plan to at once do

what they thought they had to do under the present law. I differ with, perhaps, the majority, in my interpretation of the present law, because I insist that the present law would allow the commission to adopt a plan without allocating all of the roads. The truth of the matter is that you are here to try to make a plan, and if the commission simply adopted rules under which it would permit the railroads to consolidate and the plan was sufficiently complete, then a plan has been adopted but for the fact that the present law requires or provides that no road can be consolidated except in accordance with the plan, and it appears and ought to be necessary to be done at once, and therefore, myself, I am not so sure there would be any need for very much of a change in that respect" (p. 189).

"I do insist that if there is no plan, then the whole purpose of the law as to providing adequate transportation will fail unless the carriers are grouped into provisional systems for the purpose of administering the law, especially in respect of divisions and the recapture and distribution of excess earnings."

As to opposition of strong lines on the ground that the adoption of a plan or grouping of roads will serve to inflate value of short or weak road, he does not agree. Small roads know that they must, under a voluntary system, trade with owners of strong roads, and that no road can be taken over except at such price and upon such terms as commission will approve, and if small or weak road is sold to strong line, the purchasing road is not required to take anything from its earnings to support it, because each carrier is entitled to such division of revenue as will be equivalent to what it costs to produce the transportation. (P. 189.)

Does not believe all short and weak carriers will be absorbed. No very substantial number will be taken over for a long time. Number will be increased and mergers stimulated if there is establishment of provisional systems or groups (modification of par. 4, sec. 15 (no short hauling on through routes)) and distribution of all excess revenues to carriers not earning a fair return. (P. 189.)

If the adoption of a plan for consolidation is to be left out of the law, then the commission should be told in plain terms to group the carriers into provisional systems for administration purposes, using the systems resultant from voluntary consolidation as nuclei for such groups. If relief of this character can not be had, then you are only making a bad situation worse, for the eternal conflict between the strong and the weak will continue, while each day the strong is made stronger and the weak weaker through a miscarriage of legislation intended to aid the weak. (Page 190.)

Advocates requirement that commission group roads and make provision for division of excess revenues as provided in Senate bill.

#### CONSOLIDATION POLICY ECONOMICALLY SOUND

(Hearings S. 2224 (1925), p. 124 et seq.)

"Every student of transportation, and certainly men who are associated with the weaker carriers of the country, have come to the conclusion that the national policy which we understand to be the ultimate consolidation of the railroads of the

United States into a limited number of systems is economically sound. However, I am somewhat disturbed for fear that Congress may proceed too hastily in the attempt to solve this very difficult and delicate problem. I think it is a case, gentlemen, where we can 'afford to make haste slowly.' We are all too prone, in our anxiety to see the national policy accomplished, to overlook some of the dangers that are confronting us.

#### ACQUISITIONS WITHOUT PLAN NOT PROVIDING FOR WEAK ROADS

"In the hearings which have been held before this committee it seems to me we have lost sight of the real purpose which is to be accomplished in the consolidation of the roads. As I understand the features of this bill, it is proposed to abolish paragraph 2 of section 5 of the transportation act. It is proposed that the commission adopt a plan that for a period of two years allows the carriers may go on as they are now doing, attempting to consolidate their properties. \* \* \*

"It seems to me most important that we keep in view the public need, and at the same time that we should seriously consider the effect of the existing law, as well as the effect of this law, or this proposed law, if it should be passed without some modification."

(Reads quotations from Supreme Court decisions, set out above, as showing the purpose of the transportation act.)

"Now, gentlemen, I call your attention to that because we feel that from the experience we already have under existing law, which is not proposed to be changed in this bill for a period of seven years, for as I read the bill, there is to be a period of seven years, which is to be called the period of voluntary action. What is to become of the weak roads if you take the bridle off and allow these consolidations to proceed in the future as they have so far, and as they will for seven years? Look at what has been accomplished. The law has been in effect now since 1920, a period of nearly five years. In that time paragraph 2 of section 5 has been in effect, and the carriers have been proceeding under that paragraph, as they will continue to do for the period of seven years, if there is not some safeguard thrown around the situation. It is true that much has been accomplished in the public interest, and that should be placed on one side of the ledger, but while you are viewing the profits, you should, as a matter of course, consider what losses may occur to the public, viewing the whole problem as the commission and the courts have considered it here.

#### MISSOURI PACIFIC OMITTING WEAK ROADS

"The Southern Pacific has acquired the Phelps-Dodge line and the El Paso system, and the Missouri Pacific has taken over certain roads, but in the meantime—pardon me a moment—the commission had announced a tentative plan, and that tentative plan is not merely the suggestion of Professor Ripley, but it is an order of the commission, in which the commission allocates all of the class 1 carriers to certain groups, the Missouri Pacific,

for instance, being group No. 19, and in that group—No. 19—as the map over there will show you allocated the Chicago & Eastern Illinois, Missouri Pacific, Kansas City Southern, Kansas City, Mexico & Orient, Kansas City, Oklahoma & Gulf, Texas Pacific, Fort Smith & Western, Louisiana & Arkansas, Gulf Coast Line, and International & Great Northern.

"Now, what has been the result? The Missouri Pacific has proceeded to consolidate the Texas Pacific, the International & Great Northern, and Gulf Coast Lines; and it has an interest in the Denver & Rio Grande, and in a recent interview published in the New York Times it is stated that an officer whom I suppose to be the chairman of the Missouri Pacific board, was asked what the intention of the Missouri Pacific was as to further consolidation. When asked what the next step of the Missouri Pacific would be, the representative of the company said, 'This is all for the present. What we will do in the future we can not say at this time.'

"Now, what we apprehend is that unless there is some sort of plan by which the weak roads are to be taken care of while consolidations are being effected in this way, they will do just as the Missouri Pacific has done. They have left out all of the weak roads in the consolidation thus far, and if you and I were managing the affairs of the Missouri Pacific Railroad I doubt if any of us would take a weak road and thereby dilute the earnings of that system. I think we would leave them outside of the door of the household just as long as we possibly could, if we did not do it from any other motive than that of business self-interest, because it is clear to any man that if you leave out these weak roads as long as you please, and you continue to gather to yourself the strong members, that you more and more subordinate the weak carrier, which connects with you, to your own power and influence, and as a matter of course, that weak carrier becomes more and more a victim—if you will pardon the expression—of its necessities and of the situation that is built up around it.

#### WHAT IS THE REMEDY?

"You say, 'What is the remedy?' I am not ready to agree that you can not require the commission to adopt a plan, it need not make a map, or do anything which will subject these financial interests, as they so much fear, to being put in position where they will be held up, as to the price of these properties; I do not so much fear that. I think that is more a matter of fear than a matter of actuality, because, take the commission now, it has authorized consolidations under paragraph 2 of section 5 and its tentative plan is published. There is a map over there issued by the banking interests showing how the commission has allocated those properties. No weak road has ever thought it could compel anybody to take its property, nor can it be done. The chairman, or Senator Cummins, sitting here as chairman, asked Colonel Thom—and I know Colonel Thom has given

an immense amount of thought to it, and I know he is most capable of suggesting a plan—if he could suggest a plan, and as I gathered his suggestion, it was simply to leave the railroads to work out their own plans of consolidation for a period of seven years, and at the end of seven years have the commission come before Congress and make a report of what the roads had been consolidated and what suggestions if any it had to make as to future consolidations.

"Senator CUMMINS. That was the argument of Mr. Thom; it was not my argument.

"Mr. CAIN. I said that, Senator; I said that in answer to your question; Colonel Thom made that suggestion, and I said that I had the highest regard for Colonel Thom's ability to make suggestions, but I was about to say I did not see much help in that suggestion, because at the end of seven years I fear we will be right where we are to-day, except that in the meantime many of these weak railroads, such as the Orient, for instance, and such as the Missouri & North Arkansas, and other roads that I might name, besides numerous smaller roads, will have gone into the scrap heap, and while you might then pick out a nut here or a bolt there out of the scrap heap, but the scrap heap would still be large.

"I think the public interest goes further than the mere matter of improving the service and the financial situation of the strong lines. If I understand what the public interest is, it is that the man out yonder in developing territories, such as my own State, the man out yonder, who is a pioneer in the progress of the economic life of this country, is entitled, if he raises a carload of cotton or a carload of corn, to have the opportunity of sending that carload on a through route to its destination or to its market. If these many little roads that aggregate thousands of miles and go into those thinly settled sections perish, then the man who has cast his lot with those railroads is going to be without transportation or at all events without adequate transportation. We are a growing country, and if we are to continue growing as we should, taking into consideration the things that surround us, our own potentialities, the developing road, the feeder, should be encouraged, and that was undoubtedly the policy of Congress and the national policy, as it has been interpreted by the commission and the courts.

"Now, I think, as I say, that some plan not involving anything that might prejudice consolidation, or might retard consolidation, is possible, and at the same time you can safeguard these weak roads. I have not worked out anything in detail in my own mind; I am not so sure but that the problem is so great and is of such importance to our country as a whole, that it would be well worth while to create an expert commission to study this question, and let us, when we do finally deal with it, deal with it in some effective way and not take chances—not gamble with the situation—as I fear this bill would do if it is not modified to some extent, and as I know is being done under paragraph 2 of section 5."

# REPEATS ARGUMENTS PREVIOUS HEARINGS

(Hearings S. 1870 (1926), p. 285, et seq.:)

Divisions section important, but not sufficient to give relief to weak roads, because attempts to enforce greater divisions result in loss of business from strong lines.

Systems should be well balanced and well matched.

Believes in preparation of a plan at end of three years and in the compulsory feature of recapture of earnings over 6 per cent.

(Page 302:)

"If there is to be no plan, of course, I can not see that there is sufficient protection in this bill for the short and weak roads. Unless we have a plan on this proposed distribution of the excess, then I think that the commission should be required in specific terms to group these carriers for the purpose of distributing the revenue derived from that rate level as well as providing a method by which the excess may be properly distributed into what might be called provisional or constructive groups, because I do not see how else it can be done effectively."

# GREAT THOUGHT OF CONSOLIDATION PROVISIONS TO CARE FOR WEAK AND SHORT LINES

(Hearings S. 1175 (1928), p. 202, et seq.:)

"The CHAIRMAN. Let us assume that there are 50,000 miles, approximately, of weak lines in the United States. Let us assume that something has to be done to relieve them or they quit and go on the junk pile and transportation over them would be then discontinued. The question is whether or not the passage of an act of this character will relieve those lines and enable them to be absorbed and taken into the larger systems; and, if not, what is the remedy?

"Senator MAYFIELD. Before you get away from that, I want to ask this question in connection with it, Mr. Cain. Is not the great thought underlying the whole question of railroad consolidation to take care of these weak or short lines?

"Mr. CAIN. Undoubtedly that is true, Senator, and it has been true for—

"Senator MAYFIELD. That is the history of it?

"Mr. CAIN. Yes, sir. The weak-line problem became acute when the roads were taken over for the first time in the history of this country as a unified system. It was then insisted that they were weak, and that the Government ought not to take them over.

# ADEQUACY OF LEGISLATION TO CARE FOR WEAK LINES

"Senator MAYFIELD. To permit the great, strong, large, healthy railroads to consolidate without taking care of the weak lines, would not that have the same effect as the Government's taking over the carriers during the war and leaving out the short lines?



"Mr. CAIN. I think it would; and I was just about to come to this suggestion that if members of the committee are of the same opinion that Congress has been for the past years—in other words, if the importance of these weak lines is recognized and the members of the committee agree that they must be taken care of, then it would be unnecessary for me to proceed any further as to the importance of the weak roads and the need for remedial legislation.

"The CHAIRMAN. Otherwise, the policy of consolidation is futile; it would be nugatory. What we are interested in is to see wherein this bill fails to take care of them.

"Senator MAYFIELD. You want to be absolutely sure, because that was the greatest argument put forth in behalf of the transportation act of 1920; but what the little railroads have got out of that you can put under your thumb-nail.

"Senator FESS. I think, Mr. Chairman, that no one has ever stated the situation more clearly than Senator Cummins when he put his alternative—'the short lines are not going to be abandoned, because the public won't permit it.'

"Senator MAYFIELD. Are they going to get any help?

"Senator FESS. If we do not find the solution by consolidation, then it means Government ownership. It strikes me that that is the alternative.

"Senator SMITH. What provision in this bill have you made to force, in the process of consolidation, a percentage or a part of the weak lines in each consolidated project so that you can take care of the situation?

"Senator FESS. We give to the Interstate Commerce Commission the power to do that—to say that 'unless you include this line, there is no consolidation.' Of course, we do not make compulsory consolidation. If they say they will not take it in, then the penalty is that no consolidation will follow.

"Senator MAYFIELD. The result will be that we will have 15 or 16 or 17 districts of large consolidated railroads and then have the short lines still on our hands.

"Senator SMITH. That is exactly what you will have; and not only that, but we incorporated in that wonderful piece of legislation known as the Esch-Cummins bill that they were given plenary power to determine whether a new road was needed or an additional road was needed, and they would issue a certificate of convenience and necessity. I have a case right in my State right now that smells to heaven.

"Senator SACKETT. Mr. Cain has studied this matter and he can tell us, if he will, wherein this bill fails to take care of that line. That is the point that we are interested in.

"Mr. CAIN. Senators, this bill, of course, does not completely take care of the weak railroads. I do not believe that it is practicable or possible at the present time to do that. We must bear in mind that this is a tremendous problem and at the bottom of it is finance. You have got to reckon with the financial interests of this country as well as those who are in charge of the railroads."

# VOLUNTARY CONSOLIDATION WILL NOT RESULT IN ABSORPTION OF WEAK ROADS WITHOUT PRESSURE

(Hearings, S. 4892 (1927).)

Mr. Cain having stated (p. 114):

"If you were running a big railroad and you had permissive consolidation—and I digress here to say that in my opinion that is the only kind of consolidation we can have; Senator Cummins stated it after years of study of the railroad problem and said that he thought we could not get anywhere with compulsory consolidation, and the plan he first adopted was the creation of national corporations with the power of eminent domain, taking the position that national corporations, with power to condemn, could be created by the Government, and that corporation could condemn anybody's road and bring together such roads as ought to be brought together. That was impracticable, if not impossible. So he had to fall back, and the country had to fall back upon permissive or voluntary consolidation.

"Now, you are not going to have, under the process of voluntary consolidation, an absorption or merger of the very weak road with the strong road for many years to come, and perhaps never. In many instances, therefore, it is necessary that the pressure of self-interest must be injected into any law, if you are going to have the road that does not immediately contribute profit to the trunk line taken over."

The following colloquy took place between members of the committee and the witness (page 138 et seq.):

"Senator SACKETT. When you consider and analyze the Cummins bill, I think you will find that Senator Cummins had in mind the idea that there was no great difficulty about the consolidation of any transportation lines; that is, the whole compulsion which he puts in that bill, in requiring revenues to be distributed to short lines, was for the purpose of making that consolidation take in those short lines.

"Mr. CAIN. That is correct, Senator.

"Senator SACKETT. Now, this bill takes away that compulsion or that coercion, whatever it may be, toward bringing in those short lines, to a certain extent; it does not entirely, but it replaces for that coercion the judgment of the commission that it is its duty to see that the consolidation can not take place unless you do take in the short line. Now, that brings up a situation in my mind that if the public interest requires the taking in of those short lines; this bill is weaker in that particular than the bill which Senator Cummins proposed, which would bring that about.

"Mr. CAIN. I agree with that.

"Senator SACKETT. Why weaken that situation unless we supply something to take its place? It seems to me that the thing we can supply to take the place of coercion that Senator Cummins had in mind, would be some plan by which you could gain the majority of the stock of the short lines.

"Senator HAWES. Has Senator Cummins abandoned that bill, Senator? Didn't he change his mind about the compulsory



feature that he originally advocated, and abandoned that theory?

"Senator WHEELER. No; he didn't, Senator Hawes. I think there should be something put in the bill to further protect the public interest in preserving the short line. The bill remedies that to some extent; it supplies this deficiency to a certain extent by giving the Interstate Commerce Commission the right to say to these larger roads: Why, you can make your consolidation provided you take in some man's road.

"Senator HAWES. Has not the commission the right to veto it?

"Senator WHEELER. It does not give you the right to veto, if there were any way by which they could say to that consolidated coterie of people or group of consolidation, that you can make this consolidation provided you take in the short road, and if the short road won't come in you can condemn it. Then you have got your coercion back in your bill in a different form, but without it it seems to me you have weakened the situation considerably.

"Senator FESS. Then that would eliminate section 208 where the proposed consolidation is, and whether other intervenors petition or not, from a short line, and the commission make the statement that this consolidation can not go on unless you take in certain roads. If they have a hearing upon the taking in of that road and there is some dispute after the hearing, if the commission is of the opinion that the carrier that is to be made a party is insisting upon unreasonable terms—that is a matter you have had in mind all the time, as to whether under compulsory consolidation some road might not demand unreasonable terms—it is provided here the commission may revoke or modify the condition or prescribe the terms on which the carrier may be made a party to the proposed unification. And in section 208 it gives the commission this power, that "the order of the commission under section 207 shall not become effective unless the board of directors and holders of the voting securities of each of the carriers designated herein, or, in case of a petition under section 205, the board of directors of the petitioning carrier consent thereto." Doesn't that go to the extent of repealing that section?

"Senator SACKETT. It would go to the extent of repealing that section, but I do feel that your consolidation bill is not going to be really effective to the public interest unless you supply something in place of what Senator Cummins provided in his bill.

"Senator FESS. In other words, in the public interest we can invoke the condemnatory proceedings; therefore, if a road appears, in the sense of the commission, necessary in this consolidation in the public interest, we can proceed to condemn the whole road and take it in. That raises the question that Senator Watson made a while ago: Can you force a road to sell, and can you force another to buy?

"Senator SACKETT. That is the whole question of this consolidation theory, but if you don't adopt a plan of acquiring it through eminent domain, I think you have got to bring up some other plan like Senator Cummins brought up.

Mr. ALFRED P. THOM (hearings, S. 1870 (1926), p. 172 et seq.):

WEAK LINES WILL BE ACQUIRED ONLY IF TRANSACTIONS COMMERCIALY JUSTIFIED

"I believe that if a policy of consolidation is to be accepted and is to be justified that it must be justified by its having a beneficial effect upon the transportation facilities of the country. Building them up. Making them stronger and more efficient. And can not be justified on the principle of making them weaker. Therefore that the guiding principle which must be held in mind is that there shall be no system of consolidations adopted merely for the purpose of its being in the interest of the lines that are doing the smallest amount of the transportation service now. \* \* \* I mean that the theory of consolidation must not be that it is so important to the country to preserve a road in difficulties as to dilute the strength of the road that is really carrying the traffic of the people by making it take on that road at an improper valuation. \* \* \* I do not believe that it is in the interest of the public and I do not agree that it is in the range of possibility under a permissive system that a road will be taken in by one of these competent roads except on terms that are considered commercially justified. Now, you have stated, Senator Couzens, that the immediate results might not be satisfactory, but that the ultimate results might be very beneficial, and I agree with you. But whether or not it would be commercially justified will be measured not simply by the immediate results but by the outlook of what will ultimately happen. \* \* \* I think they (the weak lines) are going to be acquired only on the basis of whether or not the conclusion is ultimately reached that the transaction is commercially justified, and if it is not commercially justified, why it will not be entered into until the time comes when they think it will be, and the terms have to be of a nature that will commercially justify it.

"Senator CUMMINS. That leaves a very important question to be answered. Who is to determine whether it is commercially justified?

"Mr. THOM. The owner of the property is going to determine that question in the first instance. Under any permissive system it will remain with them to determine that question. If that does not work, it will be left to Congress to say whether some other method ought to be adopted. But as long as there is a permissive system, and I think as long as there is a coercive system that there will never be acquisition of these properties, by one property or another, on terms not commercially justified, unless Congress is willing to say, 'We will take both properties.'

SAFEGUARD IN POWER OF COMMISSION TO ATTACH CONDITIONS OF CONSOLIDATION

Believes safeguard lies in power of commission to attach conditions of consolidation, and thinks there will be broad conception by railroads when dealing with question of whether they should take in another piece of property.

(A further expression of Mr. Thom's views will be found under the head "Complete Plan of Consolidation," *infra*.)

It should be stated that Mr. Thom at the hearings on S. 1870 and at subsequent hearings stated that he was in favor of legislation permitting the commission to attach conditions as to the taking in of weak roads to orders permitting consolidations, with the limitation that if unreasonable terms were insisted upon by the road to be taken in, the commission might waive the requirement.

Dr. C. S. DUNCAN (hearings H. R. 11212 (1926), p. 25 et seq.).

#### TEST OF WEAK LINE—CLASSIFICATION NOT PERMANENT

Discussing the problem of weak lines, he states that the test of a weak railroad is neither size nor length nor location, but the real test is the relation of net return upon investment, and that weak roads are not confined to the group known as short lines. Also that this test of weakness will not necessarily classify permanently any given road in the weak group.

Taking up the group of roads classified by Senator Cummins in 1922 as weak roads, he makes the following analysis:

Number of roads classified, 46; mileage, 42,000 miles (round figures); 1922, net operating income, \$39,325,258; total deficits, \$7,214,562; 18 roads showing a deficit; 1923, net operating income, \$65,868,649; total deficits, \$2,011,322; 9 roads showing a deficit; 1924, net operating income, \$76,598,194; total deficits, \$2,152,501; 11 roads showing a deficit; 1925, net operating income, \$84,080,405; total deficits, \$1,251,518; 7 roads showing a deficit.

Taking specific roads and showing the fluctuation: Buffalo, Rochester & Pittsburgh, 1922 return, 0.79 per cent; 1923, 4.10 per cent; 1924, 5.63 per cent; 1925, 3.64 per cent. New York, Ontario & Western, 1922 return, 0.35 per cent; 1923, 1.04 per cent; 1924, 1.73 per cent; 1925, 1.13 per cent. Detroit, Toledo & Ironton, 1922 return showed deficit \$158,984; 1923, 6.65 per cent; 1924, 8.80 per cent; 1925, 12.45 per cent. Missouri Pacific, 1922 return, 2.13 per cent; 1923, 2.23 per cent; 1924, 3.78 per cent; 1925, 6.36 per cent.

"These examples only illustrate the changes that may take place in any group of railroads where business and traffic are liable to fluctuation. They show very clearly that no extensive group of railroads can be permanently classified from the results of any one year as weak lines. The converse is also true. This is a broad country with greatly diversified climate and agriculture and industry. The same influences do not have the same effect in all parts of the country. The result is, therefore, that for one reason or another certain railroad lines may grow weaker and may fall into the class of weak lines. In a word, there is no permanent classification that can be made here.

"It is, however, certain that even though roads increase their earnings so as to rise out of what may be called the weak-road class and other roads may decrease their earnings—perhaps I should say have their earnings decreased—so as to fall into this classification, thus making the subject somewhat indefinite and

uncertain, there is a problem that remains constant. That problem is to preserve and to maintain a strong, efficient and adequate transportation service."

Notes further that out of 46 roads with total mileage of about 42,000 miles, 11,000 miles are controlled by other companies, and as to this mileage the returns are not significant.

Does not claim that there is not a weak-line problem, but that strengthening of transportation service is the pressing and important problem.

#### CAUSES OF WEAKNESS

After determining what is a weak road, we should see what is cause for weakness, such as lack of traffic due to lack of production in communities served, inability to secure traffic in the competitive struggle with other carriers or otherwise; overcapitalization; unwise construction; too low a level of rates in an entire district; overbuilding in a district; steep grades or circuitous routes; exhaustion of resources for which road was originally built, etc.

#### WILL CONSOLIDATION ELIMINATE CAUSES OF WEAKNESS

"The third step, it seems to me, that should be taken is to consider how consolidation would affect these causes of weakness. Would consolidation eliminate them? Would the joining of weak lines with weak lines bring more traffic, secure better management, produce a better financial structure, eliminate steep grades, or otherwise be helpful?

"It must also be considered that if consolidation as proposed by an arbitrary plan, would not remedy the causes of weakness, then the absorption of an inherently weak line into another system would only carry dry rot into the larger structure. No artificial plan can take into account the necessary details to afford a basis for intelligent action in regard to these questions. No arbitrary legislative act will create new traffic.

"A great deal is said about the weak lines and short lines becoming feeders to a larger system. Careful consideration, however, is needed to see that these new attachments are feeders and not suckers."

#### WEAK LINE PROBLEMS INDIVIDUAL BUSINESS PROBLEMS

In answer to questions by members of the committee, Doctor Duncan's position was that short lines with potential traffic would be taken in by a larger system upon the larger system being shown that the potential traffic exists. That there must be a careful study in each individual case. He finally said:

"Undoubtedly something must be done in aid of weak lines, unless Congress is willing to permit certain communities to lose their transportation facilities by steam roads. On the other hand, it is obviously an individual business problem in each case and can not be met by any general principle or rule. It would seem that the common-sense thing to do in this, as in all other cases, is to remove any legal or other barriers in

the way of possible consolidation or absorption of weak lines into larger systems, in order that the managements of the railroads may study the opportunities for improvement and for mutual advantage and for better service to the public. On the other hand, legislative action should be avoided which would tend to saddle weak lines on strong lines, upon which latter so great a proportion of the traffic of the country is borne, in such a manner that the general transportation service would be made to suffer.

#### CONSOLIDATIONS SHOULD TAKE PLACE ONLY ON BUSINESSLIKE TERMS

"It is generally admitted that in all cases supervision of the Interstate Commerce Commission should be required and the public interest should in all instances be safeguarded. It is equally necessary that Congress and the public should understand that the consolidation problem is one which depends upon a sound economic and commercial judgment. Consolidation will take place only upon such terms as appear sound and businesslike to the judgment of business men. Any attempt to consolidate otherwise is to place an obstacle in the way of accomplishing the very purpose desired (pp. 28-29). \* \* \*

"Congress and the public should clearly distinguish between the so-called weak-line problem and the problem of weak transportation service, realizing the former to be a question for individual and detailed study and the latter to be a real national problem which Congress must meet" (p. 33).

Mr. ROBERT S. LOVETT (hearings H. R. 11212 (1926), p. 75 et seq.):

#### COMPULSORY UNIFICATION ENCOURAGES SPECULATORS

Greatest objection to any plan that contemplates any form of compulsory or enforced unification is the encouragement it gives to speculators in the stock and other securities of what are termed the weak lines to believe that the Government will force the so-called strong lines to buy them out or take them over in some form, greatly to their profit (p. 75).

Stock of weak roads generally held by few men who acquired it as speculative proposition, or got stuck with it in some financial venture. Stock of dividend-paying roads scattered among small holders.

#### STOCKHOLDERS WOULD RATHER PAY RECAPTURE THAN TAKE UNPROFITABLE ROADS

(After discussing the recapture clause)—

"I believe, however, that most stockholders would rather pay over to the commission, if they are bound to, the net earnings in excess of the statutory limit than to be forced to accept an unprofitable road and carry that burden, which might conceivably result in their being no net earnings. In other words, if they retain their present properties, they are reasonably assured of net earnings to the amount limited by the statutes. If

they are loaded down with unprofitable lines, they might fail to realize such net earnings. To go a step further: The success of a consolidation plan, when the requisite authority is given by Congress, will depend finally upon the terms of the consolidation.

"Mr. NEWTON. That is, the terms as between the parties.

"Mr. LOVETT. As between the parties. It is going to be a matter of trading. The directors and stockholders of an existent solvent company will not willingly take over an unprofitable road at a price greatly in excess of its real value. By value, I do not mean any theories that may be prevailing popularly as to what is value, but I am speaking of value as understood by the business man and the ordinary investor. That is to say, what is this proposed property worth to us? Can we use it in a way that will give us profit or at least not involve loss? If so, we would be willing to take it over, if desired by the commission or the Government, on those terms. But we would be unwilling to take over a property at a price that is far in excess of any amount that we can conceivably hope to get out of it or any saving that may be made. By that I do not mean the owners of a prosperous road would not take a property without some hope of profit in it. I am sure, from my understanding of the spirit among the railroad executives and railroad owners generally, that they desire to cooperate with the policy of the Government in respect to this matter, whether they believe in it or not; and that they will take a property upon the best terms obtainable, provided that there is not an almost certain loss of a substantial amount.

"I do not believe that solvent railroad companies with an assured revenue, as against all competitors, will undertake the acquisition of a road that involves a certain loss, unless they are forced by the Government.

"I believe the attitude of the officers would be that if the Government has the power to confiscate the property that way—I use that term with all deference but that is what I believe it is—that rather than voluntarily take action that involves the solvency of their company, they will leave that responsibility to the Government and refuse to consolidate where the consolidation involves a gross injustice to their stockholders" (p. 79).

Mr. R. C. FULBRIGHT (Hearings S. 1870 (1926), p. 87):

#### WEAK LINE PROBLEM EXAGGERATED

"Some times I think we exaggerate this weak-line problem. I had occasion to make an analysis of a list of weak lines that was furnished by the Senator from Iowa in an article some two years ago, and pointed out to him that a large number of those lines that were classed as weak lines are in fact already controlled by strong lines. In fact an analysis of our situation in the Southwest reveals that we have left only a very few weak lines that are not in a position to look to some stronger parent for succor in time of financial stress. One of those is the Kan-



sas City, Mexico & Orient, which was the result of a dream of certain promoters that they were going to build a road from the Missouri to the Pacific coast to Mexico. And they built it through a land that was for the most part little better than a desert. Only fit for grazing over a considerable part of that territory. They never got to their objective. It was, to say the least of it, built in a territory in which there was no demand for a railroad. There was no traffic there to support a railroad. Now the result is that that has been saddled upon the public. Well, those persons who have invested in railroad properties that have been wisely administered and wisely conceived do not feel that this body should say to them that they shall dilute their investment by taking over this dream of those promoters that has long since passed through the receivership and into other hands.

"On the other hand, what has been done for the Orient? You have lent money to the Orient, increased divisions have been accorded by its connections to the Orient. Along the Orient line when those people there feared that its rail might be taken up, they appeared before the regulatory body and said, 'We are willing to pay more rates, if you leave us the railroad.' It built into a territory where there was little development, and in that territory the presence of the railroad greatly increased the value of the property. The people there should pay more for their transportation until there is development to where the railroad can be supported."

#### COMPLETE PLAN OF CONSOLIDATION

As appears from the brief analyses of the various bills which have been introduced from time to time, provisions for the preparation of a complete plan of consolidation were carried along in different forms through several bills, the time when such plan should be put into effect being deferred for varying periods. Under the legislation now proposed provision is made for a plan, but such plan is to be merely a guide and the idea of compulsion is not involved.

It has apparently been the consensus of opinion of the witnesses who have testified from time to time, as well as of the commission, that a complete and comprehensive plan of consolidation in accordance with the provisions of which all railroads should be eventually consolidated was impractical. The views of these witnesses on this subject, and upon the subject of compulsory consolidations are here set forth. As heretofore stated, these views should be considered in connection with a consideration of the weak-line problem.

See report Interstate Commerce Commission, 1925, page 32 *supra*.

ALFRED P. THOM (hearings, S. 2224 (1925)):

#### CONSOLIDATION UNDER COMPLETE PLAN UNWORKABLE

Considers consolidation under plan of a map thoroughly unworkable. Will result in roads to be taken in holding up price. Consolidation is business and financial problem, not to be dealt with on academic or theoretical lines.

Advocates permissive system to be passed upon by commission with authority to approve with modifications or to annex conditions. Believes railroads will effect consolidations themselves under permissive legislation. (P. 85, et seq.)

#### RAILWAY EXECUTIVES FAVOR PERMISSIVE PLAN

(Hearings, S. 1870 (1926), p. 177, et seq.)

Position of railways as stated in resolutions of Association of Railway Executives presented by Mr. Thom.

That legislation should provide:

"1. For a permissive, as contradistinguished from a compulsory system, under which two or more carriers may agree upon a consolidation, subject to the approval of the Interstate Commerce Commission, which should be empowered to approve it or to disapprove it, or to permit it only with modifications or conditions. If the modifications or conditions are found to be impracticable or the terms on which they can be carried out are found to be unreasonable, the right should be reserved to submit the facts to the commission, which should have power to consider the proposed modifications and conditions anew in the light of the facts, and to modify them, annul them, or prescribe terms on which they may be availed of.

"2. For Federal methods and machinery which may be availed of to carry into effect any consolidation which is approved and permitted by the commission.

"3. For a report to Congress by the commission, at the expiration of a given term of years, of what has been accomplished at that time in the way of consolidations, and the commission's recommendations, in the light of conditions then existing, of further proceedings."

#### PROPOSALS FOR CONSOLIDATIONS SHOULD EMANATE FROM RAILROADS

(Hearings, H. R. 11212 (1926):)

Commission has not yet completed plan. In his opinion impracticable to complete that work.

Hearings, S. 4892 (1927), p. 102:)

"After a great deal of consideration, Mr. Chairman, we have reached the conclusion that the only way to promote consolidations and to bring them about is by a permissive system. It is a business undertaking—I mean, carried out as a business undertaking. To carry it out is not in its essence a governmental undertaking. It must be arranged on business plans that are possible to be carried into effect. We believe that the best way of creating a situation which can be carried out is to let the proposal emanate from the railroads and be worked out by them on their own responsibility and by their own methods, so that they can provide means, by agreements or by contracts with those who must supply the means and bring it forward as a possible suggestion subject to the approval of Congress.

"Senator Fess. That is where the Government steps in.



## GOVERNMENT SHOULD PASS ON RAILROAD PROPOSALS

"Mr. THOM. That is where the Government steps in. After all these things are brought out and there is a practical plan, based upon business considerations, worked out by business men, and the means are provided, you then come to the Government and say that here is what you propose to do in the public interest, and the Government can say 'Yes' or 'No.'"

"Senator FESS. And that guarantees at once that it can not be a mere railroad solution."

"Mr. THOM. Certainly it can not be a mere railroad solution. But suppose it does not start with the railroads and instead starts with the Government as proposed in the present law; that a great mold is to be put down upon the railroad systems of the country and everything mashed into that mold. You can not do that. You are dealing with business enterprises. You have not established any means by which that can be done. The only way in which that can be carried out is by the Government authorizing the means, and that is compulsion in the way that it is intended in the present law."

## ANY FORM OF COMPULSION RAISES QUESTION OF CONSTITUTIONALITY

"Now, is there any place between the two where a system of compulsion can be created? For example, can there be such pressure put upon these carriers that they will try to find a way to get out from under the pressure by furthering the consolidations? If you attempt it and say that you do it, as suggested in the Cummins bill, by taking everything over 6 per cent from a carrier that does not consolidate you run into the question of whether you are violating the fifth amendment of the Constitution, taking property without due process of law. And there is your litigation instead of your consolidation."

Hon. HERBERT HOOVER, Secretary of Commerce (hearings S. 2224, (1924), p. 18):

## COMPULSORY CONSOLIDATION IMPRACTICAL

"It has appeared to us that compulsory consolidation per se is impracticable in finance, and it is fraught with a great many constitutional difficulties. Compulsory consolidation implies the condemnation under the power of eminent domain, and under such action the Government would be at some stage involved in the ownership of railways through condemnation. I have a doubt that, with our past railway history, if our citizens would be ready to rebuy the railways at any price that they might be condemned to the Government."

A. H. HARRIS, vice president, New York Central Lines (hearings, S. 1870 (1926), p. 246):

## CONSOLIDATIONS RETARDED BECAUSE OF REQUIREMENT FOR PLAN

"Consolidation has been held back for five years because of the bar set up in the transportation act itself. The transportation act of 1920 declared in favor of consolidations and made consolidations the policy of the Government, but required, as you know, that they should be made in compliance with the group plan. The commission has found it impossible to prepare such a plan, although a great deal of work has been done in regard to it, and valuable work, too, and much information has been gathered which will be of benefit."

"The CHAIRMAN. Have you ever tried, Mr. Harris, either alone or in conjunction with other persons—you have had great experience—to work out a group plan for the whole country?"

"Mr. HARRIS. Well, we have for the eastern region."

"The CHAIRMAN. For the eastern region?"

"Mr. HARRIS. Yes; we have not gone west of the Mississippi."

"The CHAIRMAN. And you think it is entirely feasible, do you?"

"Mr. HARRIS. You mean to work out an advance plan?"

"The CHAIRMAN. Yes."

"Mr. HARRIS. No."

"The CHAIRMAN. That is what I want to get."

"Mr. HARRIS. That is what I started to say. I am entirely in sympathy with this legislation and hope very much that it will be enacted, so far as it provides for a voluntary consolidation of railroads and gives us the machinery under which we can proceed. I am not in favor of the provisions which look to an advance grouping or of an attempt to force consolidations or to fix a limited time within which they can be made, or to penalize the companies which do not complete their groups within the limited time. I say that for reasons to which I am going to call your attention."

"The railroads of the country in the past have shown no reluctance to consolidate. Consolidation has been the order of the day. All of our systems are the result of many consolidations and there would be more of them except for the obstacles put in the way by the antitrust laws and lately by the inability to consolidate. So that the important thing, in my mind, is to take the bar down and let us go ahead."

## CONSOLIDATIONS MUST BE VOLUNTARY

"But when it comes to saying that within three years or seven years, or any particular length of time, you must have this work completed, and if you do not, then a penalty will fall upon the roads that have not consolidated—that I am not in favor of, nor do I think that after a certain length of time the commission should be required to take up again the task, which it has now surrendered in despair, of grouping the railroads which have not been consolidated. Consolidations are evolu-

tions. They are growths. They are not machine made. You can not parcel the roads out and say to those within a group, 'Get together and consolidate.' That has never been done. I doubt if it ever can be done. Consolidations must be voluntary, and until the Government is prepared either to purchase the roads or provide for their condemnation there is no way by which companies can be brought together and made to consolidate or take leases one from the other, unless the terms and conditions offered are attractive to the security holders. They will say no, and we simply come to a stop, no matter what the management may want to do. When a proposition is submitted to stockholders for their approval, if they say all right, it goes; but if they say no, the thing is at an end.

\* \* \* \* \*

"I would like to have you consider what it means to carry through a consolidation of a considerable size. First of all, it is necessary to look the field over and determine what roads you want to unite or bring in and why; what the advantages are and what the disadvantages are. You have got to look the situation over and determine what you can afford to give for a road. And then you must negotiate with the people who control it and see what terms you can make with them. You must determine not only the price and the terms but what securities are to be issued; how the thing is to be carried through. Then you must have action by the companies, and in that connection you must communicate with your stockholders and tell them what it is all about. And then you must go to the Interstate Commerce Commission and have the proposal passed upon. When it is approved, there are the financial transactions to be carried out which are involved in a merger. You must provide the money to take care of the stockholders who dissent. If it is a purchase instead of a consolidation you must provide the money to buy the property. You must have a plan to finance future requirements, for which the existing arrangements may not be adequate. And then you have to go to the market with those securities and get the money for them, bearing in mind that very often the securities you put out are unseasoned securities which have not yet found their own market.

"The CHAIRMAN. It is a tremendous task, is it not?

"Mr. HARRIS. It is. If the companies should be required to consolidate their lines within a limited time and an attempt should be made to do so, I think the situation which would be precipitated would be a serious one. It can not be done. It is not humanly possible to do it. But if it could be, it would make a great commotion and a great disturbance in many quarters. In the first place, it is likely that many of these combinations would be ill advised; that the roads would not be brought together as they should be, because proper consideration had not been given to the matter or not sufficient consideration. It would be a matter of consolidating at haste and repenting at leisure."

Does not favor time limit with penalty of distribution of earnings above 6 per cent because it will be temptation for weak roads to boost price.

President COOLIDGE's message to the Sixty-eighth Congress, second session:

#### NOT NECESSARY TO ADHERE TO A PLAN

"The consolidations need to be carried out with due regard to public interest and to the rights and established life of various communities in our country. It does not seem to me necessary that we endeavor to anticipate any final plan or adhere to the artificial and unchangeable project which shall stipulate a fixed number of systems, but rather we ought to approach the problem with such a latitude of action that it can be worked out step by step in accordance with a comprehensive consideration of public interest. Whether the number of ultimate systems shall be more or less seems to me can only be determined by time and actual experience in the development of such consolidations.

"Those portions of the present law contemplating consolidations are not sufficiently effective in producing expeditious action and need amplification of the authority of the Interstate Commerce Commission, particularly in affording a period for voluntary proposals to the commission and in supplying Government pressure to secure action after the expiration of such a period."

Dr. C. S. DUNCAN (hearings H. R. 11212, (1906) p. 22):

#### PROVISION FOR COMPLETE PLAN IMPRACTICAL AND ARTIFICIAL

"The Federal law, as it now stands, sets up an artificial and necessarily impractical provision for the consolidation of the carriers. I refer to the plan or map which is provided for in section 5, paragraphs (4) and (5) of the transportation act. So long as the railroads are a private enterprise, consolidations will be the result of bargaining on a business basis, and all parties at interest will have to be satisfied before the consolidation can be achieved, and the rights of all will have to be fully protected.

#### RAILROADS PRIVATE ENTERPRISE—TERMS OF CONSOLIDATIONS MUST BE COMMERCIALY JUSTIFIABLE

"Since the railroads are a private enterprise, even though devoted to public service and under public supervision, their relations to each other must necessarily be on a business basis. It follows, therefore, in the matter of consolidation that the terms under which consolidation takes place must be commercially justifiable. There is absolutely no other means by which the railroads while remaining private enterprises can be brought together on an equitable basis and the rights of all interested parties safeguarded."

After reciting the statements of Professor Ripley as to the difficulties of preparing a complete plan, and the recommendation of the Interstate Commerce Commission that the requirement for a complete plan be omitted, he concludes:

"The requirement for a plan, rigid, theoretical, and unworkable in practice is therefore, not only not necessary but is even an obstacle and a detriment to accomplishing the very purpose sought" (p. 24).

#### CONCLUSIONS AS TO PLAN OF CONSOLIDATION

Doctor Duncan stated the following conclusions which appear to concisely set forth the position of the stronger roads on the question of a complete plan of consolidation as contemplated by the original legislation and as contended for by the weak roads:

"Consolidation of individual properties is not a general question to be settled by general action, but each case stands alone with its own peculiar problems.

"Compulsion in consolidation is unwise and will prove unsatisfactory in its results.

"If there are to be consolidations, the system adopted should be voluntary consolidation; (a) under adequate safeguards to the owners, to all communities, and to the public; (b) along those lines which seem feasible to practical men; (c) on terms which are commercially justifiable; (d) where such inducements are offered to management as will make it worth while and will attract capital by restoring credit; and (e) such as will tone up service and save transportation facilities as far as possible to all communities.

"The advantages accruing from consolidations hitherto made should be preserved, including the actions which have been taken under paragraph (2) of section 5.

"Systems not yet completely consolidated, though approved everywhere, due to legal obstacles, should be granted the power and right to complete the consolidation. (For example, Pennsylvania and New York Central.)

"With or without consolidation, the carriers should, in the public interest, be restored as fully as possible to a sound financial standing.

#### WEAK LINE PROBLEM SHOULD BE DISTINGUISHED FROM CONSOLIDATION PROBLEM

"The so-called weak-line problem should be distinguished from the consolidation problem and should be given adequate study and immediate consideration by the commission, so as to ascertain what individual roads are weak and why they are weak, and thus enable the commission to apply such remedies as are now within its power and ask for such additional power or assistance as may then prove necessary.

"Particularly nothing should be done by Congress that will in any way impair the capacity of those carriers that now bear the chief burden of transportation service and that during the past four years afforded the people of this country the best and most adequate service the world has yet seen" (p. 37-40).

ROBERT S. LOVETT (hearing H. R. 11212 (1926)):

"I shall take it for granted that it is the settled policy of the Government at this time to promote railroad consolidations under certain conditions when approved by the Interstate Commerce Commission" (p. 71).

"The commission has appealed to Congress to relieve it of the impossible task of dividing all the railroads in the country into a limited number of systems and I will not stop at this point to dwell upon the necessity for such relief, or the disaster which I believe would result from such an arbitrary allocation of all the railroads of the United States to particular systems in any plan of consolidation" (p. 72).

#### NO POWER IN CONGRESS TO FORCE CONSOLIDATIONS

(See also his statement under head Weak Lines, p. 84 *supra*.)

Discussing the question of compulsory consolidation, Mr. Lovett stated:

"I think Congress has no more power to force the consolidation or combination of two prosperous roads than it has to force a consolidation of a strong with a weak road. It is the fundamental question of the stockholder's right in ownership and the enterprise (p. 87).

"Mr. HOCH. If that be true, unless the strong line and the weak line can agree on terms, then how is the commission ever going to bring about a consolidation?

"Mr. LOVETT. I have never believed that Congress or the commission has power to force consolidations against the wish of the company that owns the properties. I think that this legislation will be effective by opening the door to voluntary consolidations under the regulation of the commission and since the commission, as a condition of approving the proposed consolidation, may attach conditions with respect to the taking in of another line, as this will provide, that will lead to the absorption of many of the weak lines, and probably in time all of the weak lines.

"Mr. HOCH. But under your view, it could only lead to it through an agreement voluntarily reached between the weak and the strong lines?

"Mr. LOVETT. That is my judgment" (p. 87).

#### BELIEVES RAILROADS WILL ATTEMPT TO CARRY OUT POLICY OF CONGRESS

He stated the following in addition:

"I should like to add this to my answer: I am satisfied, from my knowledge of the railroad situation and of the people who are directing the policy of most of the systems, that there will be a very great desire on the part of all of them to carry out the policy that is finally settled by Congress with respect to consolidations if they can do so without injury to their stockholders. The commission is wielding an enormous power. The large systems, especially, are subject to that power, and they feel it—I mean power within perfectly constitutional lines—



and they will go a long way in working out the policy and trying to accomplish the purpose of this legislation; and I believe that influence, with the power the commission has to restrict consolidations practically in their discretion, will mean that the policy of Congress will in time be substantially accomplished. I do not say that every small line or every short line will be absorbed. But it comes down, finally, to the question of terms between the companies, provided the requisite authority is given by the statute. I have never believed that any compulsory consolidation by Congress could be effective, although that is a legal question" (p. 88).

#### COMPETITION

The expressions of Senator Cummins, Senator Kellogg, Senator Curtis, and witnesses appearing before the Senate committee prior to the passage of the transportation act have already been set out. Attention was called to the views of Professor Ripley as to the relative importance of maintaining competition in preparing a plan of consolidation. A study of the records of the hearings herein referred to shows not only a difference of opinion as to the importance of maintaining competition, but a tendency to get away from the original idea that in any plan of consolidation existing competition should be maintained so far as possible, and a substitution of the idea that if a new competition is created by consolidations that will safeguard the public interest.

In the following outline there will be first set out general statements as to maintenance of competition, followed by the expressions of the idea which has been developed since the passage of the transportation act and following these, the expressions of those who advocate either a strict adherence to the original theory of maintaining existing competition so far as possible, or who believe that the provisions of the antitrust laws should still be applied to consolidations.

HON. HERBERT HOOVER (hearings, S. 2224 (1924), p. 17):

#### PRINCIPAL COMPETITIVE SERVICE BETWEEN SYSTEMS SHOULD BE MAINTAINED

"The second problem in the consolidation effort seems to me to revolve around the question as to whether consolidation should be of the competitive system type or whether it should be regional.

"The present act requires that the proposed systems shall be laid out so as to maintain broad competition in service. There is a great deal of difference of opinion in the country, and it is perhaps possible that certain railways should be consolidated on a regional basis. There is some reason to think that New England would gain in that type of consolidation; but, in the main, it seems to me the principal competitive service between systems ought to be energetically maintained. There must be some sort of inspiration to adequate and efficient

management, which would be largely destroyed if consolidations were upon a regional footing. Competition has lost its significance in rates, but it becomes more important than ever in service."

MR. ROBERT S. LOVETT (hearings, H. R. 11212 (1930), p. 81, et seq.):

#### DOES NOT FAVOR CONSOLIDATION OF COMPETING LINES UNLESS OFFSET BY OTHER ADVANTAGES

"Mr. HOCH. In so far as strong lines are concerned, in a consolidation program, that would tend to eliminate to an extent the element of competition, would it not?

"Mr. LOVETT. I hope not. I believe strongly in competition in service and facilities as an essential feature of railroad policy. I do not much favor the consolidation of competing lines unless there are other advantages that offset what competition is eliminated. I understand the law provides now—or it did provide before the transportation act, I think—that the commission could authorize, or that consolidations might be approved, where the benefit to the public from consolidation was greater than the disadvantage."

(Discussion as to whether such statute.)

"Mr. LOVETT. I was satisfied that somewhere in recent congressional legislation there is a provision that where the public interest is benefited more by the consolidation than it is injured by the elimination of competition, consolidation should be authorized.

"Mr. HOCH. You do not favor consolidations that would in any way remove the element of competition?

"Mr. LOVETT. In service and facilities; no, I do not; that is, substantial competition. I do not mean a mere incidental competition.

"Mr. HOCH. Have you formed an opinion, or would you care to express an opinion at this time as to how many systems we might well have in this country? As I understand it, the Ripley plan provided for 21, which was modified by the commission to 19, I believe. Do you think that that is enough or that it is too many systems in order to preserve keen competition in this country?

#### NOT IN FAVOR OF THROWING TOGETHER COMPETING LINES CONSTITUTING LARGE SYSTEMS

"Mr. LOVETT. It is very difficult to express any definite opinion that is worth anything upon that subject. There are a great many important systems in this country already, and my ideas of consolidation would be that it ought to be by development of the more important systems. That may be considered as a selfish view, but it is not. Those systems are the result of conditions that brought them about, and some of them ought to be extended. Perhaps some new systems should be formed.



But I am not very keen about the consolidation of important systems that are competitive. I believe it would be very much better to have the existing systems under the process that prevailed in the past and under which those systems themselves were created, extend wherever approved by the commission, by the acquisition of so-called weak lines or even sometimes of strong lines. But I am not in favor of the policy of throwing together arbitrarily competing lines already constituting large systems.

#### MANY COMBINATIONS UNDER RIPLEY PLAN INVOLVE COMBINATION PARALLEL AND COMPETING LINES

"Many of the combinations proposed by the Ripley plan involved the throwing together of practically parallel and competing lines; not merely competing in some small locality, but throughout a great territory. I do not believe that is wise; yet, if there is to be an arbitrary enforced compliance with the original consolidation act by the commission, I believe probably the commission and Professor Ripley did about as well as they could under the difficulties confronting them."

#### COMPETITION WILL DISAPPEAR IF CONSOLIDATIONS MADE ON SCALE INDICATED BY LAW

In the testimony of JOHN E. OLDHAM we find for the first time a definite contention that the provisions of the act as to preservation of competition are of secondary importance. In an article by Mr. Oldham, published in the Harvard Business Review of January, 1923, submitted in connection with his testimony (hearings, S. 2224, p. 40), Mr. Oldham said:

"The act specifically provides that the commission in preparing its plan shall aim to preserve competition as fully as possible. *It is inevitable, however, that much of the existing competition will disappear if consolidations are to be made on such an extensive scale as is indicated by the intent and wording of the law.*

#### OLDHAM DECLARES COMPETITION OF SECONDARY IMPORTANCE

And again:

"It is clear that the transportation act declares a new railroad policy for the future under which competition is to be of secondary importance; under this policy railroad mergers which heretofore have been forbidden are to be encouraged and promoted. The early drafts of the transportation act even went so far as to contain provisions for making such consolidations compulsory if they were not voluntarily undertaken by the railroads themselves within a specified time. The compulsory provision was omitted from the final draft of the act, but the fact that it was long and seriously contemplated is evidence of the belief that the policy of the past in respect to competition had been unwise and that a different policy for the future was necessary."

Senator CUMMINS, at the hearings on S. 1870 in January, 1926, made the first suggestion emanating from him as to subordination of preservation of competition (p. 53, hearings, S. 1870):

#### SENATOR CUMMINS MODIFIES VIEWS ON COMPETITION IN 1926

"It has been suggested to me, and I think the suggestion has a good deal of force, that so far as competition is concerned and preserving the established routes of trade and commerce, that there ought to be a transposition of the declaration of policy with regard to the rules that would guide the commission in issuing a plan so that what is really the first consideration should be taken into account primarily, and that it should be clear that the preservation of competition and channels of commerce are subordinate to the final test, namely, the organization of systems that could do business upon competitive rates and still earn a fair return and survive. That is the real object of consolidation—to keep the railroads of this country running at the lowest possible rate.

"Senator WHEELER. To keep the weaker roads running.

"Senator CUMMINS. Yes; and I am very much impressed with that suggestion."

And later on at the same hearing (p. 107):

"Senator SMITH. Mr. Chairman, it has been suggested to me: Is not this the idea under the new plan that we are about to embark upon, in line 8, after the word 'competition,' insert 'as between consolidated systems,' so that as amended it would read 'declared to be the policy of Congress that a limited number of systems should be established, by the consolidation of carriers or the unification of railway properties within the continental United States, that will, as fully as possible preserve competition as between consolidated systems and wherever practicable, maintain the existing routes of trade.' Was not that the real object in incorporating this language?

"Senator CUMMINS. It was.

"Senator FESS. 'Preserve' is not a good word there, because we do not have systems yet—'insure competition.'"

(NOTE.—The departure from the original idea will be noted here, and it is emphasized by the remark of Senator Fess. Competition to be "preserved" as provided for in the original act could hardly be competition between the new systems which had not yet been established. It must have referred to existing competition.)

Mr. ALFRED P. THOM (hearings, S. 1175 (1928), p. 84):

#### MODIFICATION OF PROVISIONS AS TO COMPETITION SUGGESTED

At these hearings Mr. Thom was discussing a proposed revision of S. 1175, which had been prepared by the law committee of the Association of Railway Executives. As to competition, his proposed bill provided:

"The unification through any method or procedure provided for in this title of carriers or property of carriers, is hereby

authorized, and the commission shall carry out the provisions of this title in such manner as in its opinion will protect the public interest, preserve necessary weak or short lines, prevent any undue lessening of existing carrier competition in service in cases *where such competition is deemed by it essential to the public interest.*"

This was the language used in the House committee's tentative bill.

#### OBJECTION TO PROVISION AGAINST SUBSTANTIAL LESSENING OF COMPETITION

Mr. Thom stated that the National Industrial Traffic League desired this changed to read something like this:

"Prevent any substantial lessening of existing carrier competition in service."

Mr. Thom said:

"Our objection to that is that almost inevitably you will find a consolidation will do away with some competition and perhaps with some substantial competition; but that if the destruction of that competition is found or considered by the commission in the public interest, the commission ought to have power to permit it." (P. 85.)

At the hearings on H. R. 5641 (1928), discussing the same proposal of the National Industrial Traffic League, Mr. Thom said (p. 114):

"One of the points that you gentlemen will have brought to your attention is found on lines 13, 14, and 15, where the expression is used 'to prevent any undue lessening of existing carrier competition in service in cases where such competition is deemed by it essential to the public interest.' That is not different from lines 4 and 5 of the paragraph as tentatively approved by this committee. It continues in effect. You will have the contention presented to you that that phrase is not an expression of what you ought to put in the act, but that you ought to put into your act this phrase: 'It must be found that it will not substantially reduce existing carrier competition.' If that is in there, of course you might just as well abandon the idea of consolidation, because there are no cases of possible consolidation in which there will not be some substantial lessening of competition. The question is whether or not the competition which will be lessened is more important to the public than the advantages that will be secured by the consolidation.

"I will give you one illustration. Suppose you find that there are two lines now substantially competitive with one another, not throughout their whole length but in respect to a given service between certain points. You find that if you allow the consolidation, and rates are made on their economic merits, that there would be an opportunity, if that consolidation goes into effect, for a reduction in rates. Now, there you would have these two considerations to balance. One is whether or not it is in the public interest—so greatly in the public interest that this competition should be preserved—that you would be justified, because of this competition, to forego the opportunity for reduction in rates. My position is that that question ought to be left

to the determination of an administrative body as to whether or not the advantages from consolidation are sufficient to outweigh any lessening of competition which may be involved, and therefore I think that you gentlemen have expressed it exactly as it should be—"prevent any undue lessening of existing carrier competition in service in cases where such competition is deemed by it essential to the public interest."

#### INTERSTATE COMMERCE COMMISSION:

##### INTERPRETATION OF PRESENT LANGUAGE AS TO COMPETITION

An interpretation by the Interstate Commerce Commission of the language of the present act as to competition is found in 124 I. C. C., page 417, quoted in hearings, H. R. 5641 (1928), page 255:

"A certain amount of interference with competition is involved in nearly any railroad combination that may be formed, but if this interference is not unduly great, if effective competition is preserved at all important points, and particularly if the tendency of the combination is to increase and promote other competition to compensate for that destroyed or lessened, the combination may well merit our approval."

#### WALKER D. HINES:

##### DIFFERENCE BETWEEN CONSOLIDATION PROVISIONS AND ANTITRUST LAWS

At the hearings on S. J. Res. 161 (1930), Mr. Hines, counsel for stockholders of the Northern Pacific and Great Northern Railways seeking unification of those roads, said (p. 409):

"Now, the difference, and I think it has not been so far made entirely clear to this committee, between this situation and that which existed under the antitrust laws, is this: The theory of the antitrust laws, both when the Sherman Act has been interpreted by the Supreme Court of the United States and the Clayton Act, is that no two carriers may be put together if there is any substantial competition between them. For example, if there were six carriers that were competing for certain traffic, and if it would be permissible in the interest of the public to say: We want plenty of competition there, but we do not want six carriers competing; they are too many and are wasteful and very much against the public interest; we want to reduce that number to, say, three, by making some combination among the six carriers. Under the antitrust act and the Clayton Act that could not be done, because the theory of those acts was whatever combination you have you must keep, whether in the particular case it is wasteful or not. The policy is that you must keep all the competition there is, all the competing lines that exist.

##### UNABLE TO HAVE COMBINATIONS UNDER ANTITRUST LAWS

"Now, if that policy were resorted to, you would undoubtedly be unable to have any combinations in this country at all. You would perpetuate them for all time. The situation as to com-

petition could not be improved through having two or more railroads consolidate into fewer hands. Specifically as to the Northwest, in this narrow zone of 400 miles, three separate railroad systems, running all the way through that zone, the Northern Pacific, the Great Northern, and the Milwaukee. You have all this competition over on the Canadian border, coming over in various places on our side of the line. You have the competition of the Union Pacific. And I think there has been a very general competition that on account of the thin traffic in that region it would be distinctly in the public interest not to have so many separate transcontinental lines, and that there would be ample competition with this unification.

"Now, under the antitrust act and under the Clayton Act these things can not be considered at all. That competition is there and it must be perpetuated, according to those acts. The transportation act, however, adopted a different theory. There is a very important difference. And that was while competition should be preserved, the test of its preservation is: How much competition is necessary to protect the public interest. And hence if there were more competitors than were really needed to give ample competition, and it really produces a wasteful situation, the Interstate Commerce Commission, upon a full record and upon considering everything in connection with the situation, can authorize a combination of some of them. That is what the Interstate Commerce Commission has done in this case.

"The suggestion that the present powers of the commission be suspended or that there be written into the law that no more combinations may be made, that it will violate the antitrust laws, simply means to go back to the old theory that you must have as many competitors as you have at the present, and when you attempt to apply that theory you get into a situation where there is very little opportunity to work out an improvement of the situation through avoidance of unnecessary waste.

"There is a fundamental distinction between competition as dealt with by the antitrust act and as dealt with by the transportation act. If you would look at the railroad map and consider what would be possible in the way of combinations which would not involve any parallelism of lines or which would not involve any substantial competition between carriers, it would be apparent that there would be almost a complete limitation upon anything in the way of combination to avoid unnecessary waste."

R. C. FULBRIGHT (hearings, S. 1175 (1928), p. 144 et seq.):

#### NATION STILL ADHERES TO POLICY OF PRESERVATION OF COMPETITION

"In 1890 the Sherman Antitrust Act, by which we made a declaration of policy in favor of the preservation of competition a part of our national law, was passed, and I think the Nation still adheres generally to that policy. It is true that in the adjudication of cases under this act we have reached what may be termed a rule of reason; but, after all, competition is con-

sidered to be a fundamental factor in the stimulation of a high degree of competency and ingenuity and efficiency in our American industrial system.

#### MAJOR SYSTEMS PUT TOGETHER AFTER PASSAGE OF SHERMAN ACT

"When the antitrust law was passed in 1890, there were then in progress a great many railroad amalgamations or consolidations in various ways. Strange to say, it did not substantially stop this process. It did not substantially deter railroad construction. A very large part of the major systems of our country have been largely put together since the antitrust law was enacted. The reason that has been possible is that the courts have dealt with this subject of competition in a reasonable way. They have not said that there can be in no instance any impairment of competition, but that it is fundamentally important to preserve competition as a whole.

#### PROPAGANDA AFTER TRANSPORTATION ACT THAT POLICY AS TO COMPETITION REVERSED

"Following the transportation act in 1920 and within the years 1923 to 1926 there were quite a few people who proclaimed in various ways through articles in financial periodicals and magazines that a new policy of the law had been adopted; that the old Sherman Antitrust Act had been repealed, in so far as railroad consolidations were concerned; and that it was now the policy of the law and the desire of people that the railroads be reduced to a small number of large systems and that competition was simply a factor to be considered, but that it should not get in the way of any such program.

"Senator Fess. It is interesting, Mr. Fulbright, to notice how public opinion goes in cycles. For a long while the slogan was 'competition is the life of trade.' Later on there was a reaction and we heard 'competition is the death of trade.' I notice that in college circles at one time one note was a debatable question with emphasis on the one side, then there was a period of reaction that went the other way. It is quite interesting. We are right now in an interesting phase of thinking along the same line.

#### SHIPPERS WANT PRESERVATION OF COMPETITION

"Mr. FULBRIGHT. Senator, the remarks that you have made demonstrate to me the very great importance of our organization of shippers disabusing the minds of Congress as to the attitude toward competition among carriers. I want to say to you that never at any time in any meeting of shippers' organizations for the past several years has the subject of consolidations been dealt with but what they gave forth an affirmative proclamation that competition should be preserved. There has been no such public sentiment among the shippers. It has largely originated with financial interests and with so-called investment banking interests.



"Now, that is one of the main things that I want to accomplish here; I want to demonstrate to you that this matter of competition is not something upon which the public has gone to sleep, but we do not go into the newspapers with what we have to say about these matters. We do not try our problems in the newspapers.

#### TRANSPORTATION ACT DID NOT REVERSE NATIONAL POLICY AS TO RAILROADS

"In the first place, the 1920 transportation act did not have any such effect as some have ascribed to it. The question of competition was dealt with very specifically in that act. It provided in paragraph 4 of section 5 of the interstate commerce act as amended in 1920 that—

"The commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railroads of the United States into a limited number of systems."

"I have quoted the language of the law. Then it proceeded to lay down in that same paragraph, and in the next sentence, the principles or the requirements under which that should be brought about, and I wish to read you that:

"In the division of such railways into systems under such plan, competition shall be preserved as fully as possible, and wherever practicable the existing routes and channels of trade and commerce shall be maintained."

"That is pretty strong language. It did recognize that in the working out of any consolidation there would be some impairment of competition, but there should at least be a rule of reason, and the major objective should be the preservation, as far as possible, of that competition."

"After stating this fundamental first premise which I have read, the same section goes on to state:

"Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the value of the properties through which the service is rendered shall be the same, as far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties."

"Senator FESS. Is not that a very difficult thing to carry out?"

"Mr. FULBRIGHT. The last part of it is impossible."

"Senator FESS. I think so."

"Mr. FULBRIGHT. And I do not think that Congress ought by direction or indirection impose any such mandate upon the regulatory body. I may say that there are as many theories as to consolidation as there are remedies for rheumatism. Every man who has an interest in a particular proposal has a particular theory as to consolidation. We wish to deal with this in its major aspect, and in formulating a statute we should lose sight of the particular individual case."

#### REASONS FOR EXEMPTION FROM ANTITRUST LAWS

"The first part of that statute as to the preservation of competition was very positive. It is true that elsewhere in the statute there was a suspension of the application of the antitrust law to a consolidation which pursuant to these principles should be found to be in the public interest. That is proper and it is proper that you have it in here, no matter what mandate there might be with respect to maintaining competition as a guide for the commission. The reason for that is simple. You confer upon the Interstate Commerce Commission, a quasi-judicial body, the jurisdiction to determine when this acquisition of control is in the public interest and to give an order authorizing that to be carried out. Now, having done that, you do not want those railroads that have gone into that undertaking to run the danger of being investigated by the Department of Justice and prosecuted or indicted for doing something which this other tribunal has been created to permit them to do. Therefore, it is important that the effect of the antitrust law shall be suspended when the consolidations are made pursuant to the consolidation act in order that the commission's work may not be hampered and in order that the railroads having thus received this authority may not be thereafter embarrassed; but it was not intended by the 1920 act, as I see it, to simply repeal the antitrust law; it was intended that the commission should preserve competition rather than the courts."

\* \* \* \* \*

#### COMMISSION HAS PERMITTED ACQUISITIONS SUBSTANTIALLY CURTAILING COMPETITION

"In our judgment the Interstate Commerce Commission has gone rather far afield in permitting an elimination of competition in some cases, even under the 1920 act. Their reason for doing that is that the applications which they have considered are under paragraph 2 of section 5, which provides that the commission on the application of a carrier, or carriers, to the extent indicated by the commission may permit one of these carriers to acquire control of another through a lease or purchase of stock, or in any other manner not involving consolidation of the carriers into a single system for ownership or operation, provided they find it will be in the public interest. Under the next paragraph they had to work out this plan first and not having worked out the plan the carriers made application under this provision here which says something short of consolidation. In construing that the commission has applied the de minimis doctrine adversely; then in permitting the railroads to do something which is in the minds of many lawyers equivalent to a consolidation. But, at any rate, the carriers make an application under this section. There are two lines that are competing for their freight, and they say to the commission that there is



not any requirement that competition shall be preserved under paragraph 2 and they are going under paragraph 2. That requirement for preservation of competition is in paragraph 4.

"I do not think that Congress meant that the commission could destroy competition all over the country and then later when it got to issue its plan under paragraph 4 would preserve competition as fully as possible. I think one declaration in paragraph 4 was the declaration that would protect the shippers against this very destruction of competition. That in the minds of the shippers is one of the strongest arguments for the passage of consolidation legislation.

#### PRESENT LAW DOES NOT ADEQUATELY INSURE PRESERVATION OF COMPETITION

"We do not think the present law is adequate because of the way the commission has interpreted it in permitting acquisitions of control under paragraph 2 which substantially curtail competition. In some cases they have denied it and competition has been given as one of the reasons but it has not been shown to be the controlling reason."

#### SUGGESTED AMENDMENT

In lieu of the language of paragraph 1, section 202, of S. 1175, which read:

"The unification through any method or procedure provided for in this title, of carriers or property of carriers, is hereby authorized, and the commission shall carry out the provisions of this title in such manner as in its opinion will protect the public interest, preserve necessary weak or short lines, prevent any undue lessening of existing carrier competition in service in cases where such competition is deemed by it essential to the public interest, and bring about ultimately the establishment of a number of strong, efficient, and well-balanced systems, calculated to facilitate simplified and more effective regulation, to promote economy, to afford better service, to maintain as far as practicable the existing routes and channels of trade and commerce, to eliminate unnecessary duplications and wasteful competition and to provide the advantages of competition between the systems so established—"

Mr. FULBRIGHT suggested the following (p. 158):

"The unification of carriers or property of carriers through any method or procedure provided for in this title may be authorized by the commission where it finds that such unification is in the public interest, and that it will not substantially reduce existing carrier competition."

He called attention to the fact that the words "and to provide the advantages of competition between the systems so established" mean that the commission is to build up a competition that does not now exist.

Page 159:

"We do not like any declaration of policy in the law (because of the claim that will be made by advocates of consolidation that Congress has made consolidation mandatory) at all except that the proposed consolidation shall be in the public interest and competition shall be substantially preserved. When you do that it is simple. The carriers are free to make any application they desire to make. They can make an application to put them all in one line. But here is a method of procedure all mapped out in a masterful way, and the commission is to pass on any consolidation put forward. The only thing that we would have you say to the commission is that competition shall be substantially preserved, not entirely preserved because there is going to be some curtailment of competition in almost any consolidation. Two roads may compete with each other to a limited extent; but when we speak of substantial in preserving something we mean in the major aspects, and somebody has to use power in interpreting that language. You can not do it. You have created the Interstate Commerce Commission, and you should place the responsibility upon them to do that. It gives to them a discretion. There may be a case where there is some impairment of competition, but they would not consider, taking the problem as a whole, that it is substantial. They will be the judges as to that according to this bill."

#### RAILROAD REPRESENTATIVES OBJECT TO PROPOSED AMENDMENT

Both Mr. Cain, representing the American Short Line Railroad Association (hearings S. 1175, p. 208), and Mr. Thom, representing the Association of Railway Executives (hearings S. 1175, p. 84), objected to the use of the word "substantial" before "competition," as suggested by Mr. Fulbright, on the ground that such a provision would prevent consolidations.

In reply to Mr. Fulbright's suggestion that a large portion of the major systems of our country were put together after the enactment of the antitrust laws, Mr. Thom said (hearings H. R. 5641 (1928), p. 355):

#### RAILROADS CLAIM CONSOLIDATION ACTIVITIES CEASED AFTER DECISION THAT ANTITRUST LAW APPLIED TO RAILROADS

"Mr. THOM. Now, Mr. Huddleston asks for some explanation of why there is need for additional law on this subject. I would like in the first instance to call attention to a little leaflet prepared by the Atlantic Coast Line, from which I read the following expression.

"Mr. NELSON. What is the date of that little leaflet?

"Mr. THOM. November 21, 1927. You gentlemen will recall that, although the Sherman Antitrust Act was passed in 1890 it was not until a decision in 1902 or 1904—I forget which—that it was construed by the Supreme Court of the United

States to apply to railroads. It was thought up to that time that it did not apply to railroads. It was held then that it did.

"Mr. RAYBURN. I can not get that, Colonel.

"The CHAIRMAN. Will you repeat that please, Colonel Thom?

"Mr. THOM. I said that the Sherman Antitrust Act was passed in 1890. It was not thought that it applied to railroads until the Supreme Court of the United States decided that it did. I think it was about 1904. It was certainly after 1900, and it was either 1902 or 1904. At that time there was a decision that the Sherman Antitrust Act did apply to combinations between railroads themselves.

"This little pamphlet in one of its paragraphs states this:

"By 1902 most of the important existing systems had taken pretty much of their present form. Further activities toward consolidation, however, were practically ended by the decision of the Supreme Court to the effect that the Sherman Antitrust Act applied to the railroads.

"So that Congress confronted in 1920 the necessity of recognizing that desirable consolidations between railroads could not take effect if the combination violated the provisions of the Sherman Antitrust Act. As a consequence, it adopted section 5 of the interstate commerce act, which undertook to deal with that subject in the ways with which you are familiar. First, by providing that in paragraph 2 of that section for what most of us thought was an ad interim method of taking care of incidental situations which should not be allowed to remain undealt with until it was possible to carry into effect the main features of the consolidation legislation, and second, by providing a permanent plan (in addition to what was contained in paragraph 2 of section 5) that is set out in paragraphs 4, 5, and 6 of section 5, which require the making of a map for all railroads of the United States and to carry out in that way the policy of completely rearranging these carriers into different groups or systems."

NEW JERSEY INDUSTRIAL TRAFFIC LEAGUE (hearings S. J. R. 161, (1930) p. 116):

OPPOSES FURTHER CONSOLIDATIONS EXCEPT UNDER PROVISIONS OF SHERMAN ACT

"Whereas on February 28, 1920, Congress enacted legislation modifying the act to regulate commerce, which, among other things, provided for the consolidation of the railroads of the United States into a limited number of systems; and

"Whereas the New Jersey Industrial Traffic League has given careful consideration to this subject as it affects the commerce and trade of the State of New Jersey; and

"Whereas at a regular monthly meeting of this league, held on March 27, 1930, the following resolution was unanimously adopted: Be it

"Resolved, That the New Jersey Industrial Traffic League is opposed to further consolidation of the railroad properties of the

United States into a limited number of systems, and that it favors the repeal of the provisions of the interstate commerce act relating to the consolidation of the railroads of the United States, but that consolidations which are permissive under the provisions of the Sherman Antitrust Act should be allowed."

RAILWAY LABOR EXECUTIVES ASSOCIATION (hearings S. J. R. 161, (1930) p. 243):

"It should be made unlawful for carriers to consolidate except after specific approval and authorization by the Interstate Commerce Commission based upon findings of the commission that the proposed consolidation will positively promote the public interest in economical, efficient, reliable and reasonable transportation service; that it will (a) promote better service to the public, or (b) economy in operation without deteriorating essential service and (c) that it will not substantially restrain or lessen competition and (d) that it will not be inconsistent with the public interest in any material respect."

Hon. FRANK McMANAMY, chairman Interstate Commerce Commission, (concurring opinion, consolidation plan, 159 I. C. C. 570):

PARALLEL AND COMPETING LINES CAN NOT LAWFULLY CONSOLIDATE

"I believe that the mandate of Congress, that—in the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable the existing routes and channels of trade and commerce shall be maintained—is controlling, and that all other provisions relating to consolidation were intended to and should be subordinate thereto. For the above reason I do not believe that parallel and competing lines may lawfully be consolidated. By competing I mean lines which in general serve the same producing points lines ports, and the same markets. A conspicuous instance of this is the Great Northern and the Northern Pacific which are to be consolidated under this plan. These lines extend from the Twin Cities and from Lake Superior ports on the east of Puget Sound ports on the west. They parallel each other for their entire length of more than 1,800 miles. They serve jointly the same ports, the same grain fields, the same mines, the same forests, and such important intermediate cities as Spokane, Wash.; Butte, Helena, and Billings, Mont.; Fargo and Grand Forks, N. Dak., and a multitude of smaller communities at all of which each railroad is, as both have testified, the other's most active competitor. Other instances are the Erie and the Nickel Plate, which parallel and compete with each other from Chicago to Buffalo, and the Delaware, Lackawanna & Western and the Erie, which parallel and compete with each other in the territory east of Buffalo. None of these are weak lines and no reason exists for their consolidation except to create bigger systems."

See also resolution of members of House from Minnesota, page 56 *supra*.

The hearings on S. J. Res. 161 indicated that there was no particular objection to the exemption from the provisions of the antitrust laws of short lines and weak roads, the questions raised being largely as to a proper definition of such carriers.

A brief discussion of provisions of S. 668 as to competition, complete plan of consolidation, weak roads, etc., will be presented under the heading Present Proposed Legislation, *infra*.

#### WEAK ROADS LISTED BY SENATOR CUMMINS

##### BASIS OF CLAIM THAT TRANSPORTATION SYSTEM COULD NOT SURVIVE WITHOUT CONSOLIDATION

In his speech in the Senate on the transportation act (Congressional Record, Senate, December 4, 1919, p. 126), Senator Cummins recited the earnings of some of the railroad systems of the country for the 3-year period ending July 1, 1917, as illustrating the necessity for remedial legislation if some of these roads were to live.

Later a series of articles by Senator Cummins was published in a newspaper and the articles combined in a pamphlet entitled "Railway Transportation in the United States," which was printed as a Government document. In this pamphlet are listed 46 roads showing inadequate returns for 1922. A list of these roads appears in the hearings on S. 1870, at page 267, in connection with the testimony of Mr. A. H. Harris, vice president of the New York Central lines.

At the hearings on S. 1870, Senator Cummins made a part of the record (pp. 38a and 38b) two tables, one containing a list of 70 roads with an aggregate mileage of 56,464.13 which during the years 1922, 1923, and 1924 earned an average return of less than 3 per cent, and another containing a list of 30 roads with a total mileage of 60,934.47 which during the same period earned an average of more than 3 per cent but less than 4 per cent.

For the use of the committee there has been prepared by the Interstate Commerce Commission a tabulation of the rate of return on all Class I steam railways for the years 1921 to 1929, inclusive, which is attached to this report (p. 210). The rate of return is in each case computed upon book value as shown by the reports of the carriers and not upon valuations fixed by the commission. This is necessary in order to make proper comparison, because previous tables were computed in that manner, and also because no final valuation sustained by the courts has yet been made by the commission. It will be noted that for the years 1923-1929, inclusive, cash and material and supplies are included with road and equipment as a basis for determining return. This would make the rate of return somewhat lower than if road and equipment alone were used, as was the case for the years 1921 and 1922, but the difference is not so great as to be material.

##### DIFFERENCE BETWEEN RATES OF RETURN ON BOOK VALUE AND ON VALUATION

It must be kept in mind, however, that there might be a very material difference between rate of return figured on book value and

a rate figured upon an actual valuation. A comparison of the rates of return for 1928 on certain roads as shown by the exhibit attached, based upon book values, and rates of return computed upon the valuation of the commission, as taken from Commissioner Taylor's concurring opinion on the consolidation plan is very interesting. While some of the figures are very close, the following show differences which in several instances, such as those of the Erie, the Green Bay & Western, the Colorado & Southern, and the Denver & Rio Grande, might be considered sufficient to take the carrier out of the weak-road class.

Year ending Dec. 31, 1928	Rate of return based on book value	Rate of return based on commission valuation
	Per cent	Per cent
Cleveland, Cincinnati, Chicago & St. Louis.....	4.78	5.78
Chicago & Alton.....	1.72	2.97
Reading Co.....	4.34	6.56
Central R. R. of New Jersey.....	4.60	5.27
Chesapeake & Ohio.....	8.69	10.44
Hocking Valley.....	9.07	12.52
New York, Chicago & St. Louis.....	4.20	6.55
Pere Marquette.....	6.63	9.36
Erie.....	3.69	5.64
Chicago & Erie.....	4.02	6.15
Colorado & Southern.....	2.13	4.51
Fort Worth & Denver City Ry. Co.....	8.28	11.39
Wichita Valley Ry. Co.....	5.83	8.79
Green Bay & Western R. R.....	2.54	4.60
Missouri-Kansas-Texas R. R. Co.....	4.86	9.85
Denver & Rio Grande Western Ry. Co.....	3.22	5.58

In the single case of the Toledo, Peoria & Western there is a large discrepancy in the other direction, the book value return being shown at 15.39 per cent for 1928, while the rate upon valuation is shown as 4.09. This is accounted for by the fact that after the reorganization of this road in 1927, the investment which had been carried at something over \$9,000,000, was reduced in the reports to something over \$1,000,000, the total investments for 1928 being shown by the report as \$1,893,367, with a net railway operating income of \$308,748, or a return of 15.39 per cent, while the commission valuation is shown by Commissioner Taylor's opinion as \$7,551,901, which with the same net income produces a return of 4.09 per cent.

These valuations, of course, are not final, but the differences cited would seem to indicate that until the carriers have been valued no accurate conclusion can be reached as to whether any particular road is actually a weak road.

##### LISTS OF WEAK ROADS INCLUDED SUBSIDIARIES OF LARGER SYSTEMS

In both lists prepared by Senator Cummins, he included roads which were in fact, by reason of stock ownership and control, subsidiaries of larger systems. In the case of the 46 roads listed by him in 1922, only 25 were independent roads; and of the 70 roads listed at the hearings on S. 1870, earning less than 3 per cent, only 37 were independent roads. Therefore, while the figures of 70 roads with a mileage of between 50,000 and 60,000 miles earning less than 3 per









Statistics are sometimes of doubtful value. This is particularly true in the case of railroads because so many elements enter into railroad earnings which are not present in other industries. For instance, in the case of the Georgia, Southern & Florida, the average rate of return for the years 1924, 1925, 1926 was 7.1 per cent, while the average for 1927, 1928, 1929 is only 2.52 per cent. This road is and during all the period involved in the statistics has been a subsidiary of the Southern, controlled by ownership of a majority of the stock, and is shown in the reports of the commission as a part of the Southern system. Its corporate structure appears to be sound. The earnings fell from 6 per cent in 1926 to 2.48 per cent in 1927. The explanation is that freight receipts fell off over \$1,000,000 in 1927, and this was doubtless due to changed conditions in Florida.

The 3-year average return of 2.52 per cent does not therefore demonstrate anything, so far as the consolidation problem is concerned.

On the other hand, we may take the Toledo, Peoria & Western, the capital stock of which was owned by the Chicago, Burlington & Quincy and Pennsylvania, and which was under receivership until March 31, 1927. The statistics show a deficit for each of the years from 1921 to 1926, inclusive; 1927 shows 4.94 per cent, 1928, 15.39 per cent, and 1929, 15.54 per cent, these large returns being made under an apparently independent ownership. While there was a slight increase in earnings in 1927 over 1926, and a material increase in earnings in 1928, the discrepancy in rate of return is due to the amount of investment shown. The new road, the Toledo, Peoria & Western Railroad Co., shows a total investment of only \$1,893,367, while in 1927 the old road showed total investment \$9,640,375, and the return for 1928 on the basis of that figure would have been only 3.2 per cent as against the figure now shown of 15.39 per cent. As indicated above the commission showed a valuation of \$7,551,901, and on this valuation the return would be 4.09 per cent.

#### INDEPENDENT ROADS LISTED AS WEAK HAVE SHOWN GREATER IMPROVEMENT THAN SUBSIDIARIES

However untrustworthy figures may be in specific instances, it may be of some value to consider the carriers in groups.

Above, the roads listed by Senator Cummins in his pamphlet and in his tables offered at the hearings on S. 1870, which were in fact subsidiaries of larger systems, and those roads listed by him which were independent are grouped separately. While almost any result can be obtained by taking individual roads from each group, a comparison of the progress made in each group is interesting. It will be recalled that all these roads earned less than 3 per cent for the period of 1922-1924. The groups do not include, of course, roads listed under the acquisitions of control.

#### Average return for years 1927, 1928, and 1929

	Of 33 independent roads listed as weak	Of 35 subsidiary roads listed as weak		Of 33 independent roads listed as weak	Of 35 subsidiary roads listed as weak
More than 4 per cent.....	11	5	Less than 1 per cent.....	5	4
3 to 4 per cent.....	8	6	Deficits.....	1	6
2 to 3 per cent.....	2	5	Not reported.....	2	4
1 to 2 per cent.....	4	5		33	35

(Figures of 68 includes roads in pamphlet not in 1926 list and those in 1926 list not in pamphlet.)

These figures would appear to indicate that the independent weak roads had made much greater progress than those under the parental wings of larger systems.

#### PARENT ROADS SHOW GOOD RETURN—SUBSIDIARIES SHOW DEFICIT

The showing of the St. Louis Southwestern of Texas, with continuous deficits or very small returns ever since 1921, is interesting when compared with the showing of its parent company, the St. Louis Southwestern, which follows:

	1921	1922	1923	1924	1925	1926	1927	1928	1929
St. Louis Southwestern.....	7.32	7.37	7.3	4.8	4.9	5.1	4.06	4.78	5.42
St. Louis Southwestern of Texas.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	1.3	1.4	1.1	1.22	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Deficit.

Another illustration of a healthy parent with a weak child is found in the case of the St. Louis-San Francisco and its subsidiary, the Fort Worth & Rio Grande.

	1921	1922	1923	1924	1925	1926	1927	1928	1929
St. Louis-San Francisco.....	4.76	4.08	4.5	4.9	5.2	5.4	4.97	4.81	4.82
Fort Worth & Rio Grande.....	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Deficit.

Similar illustrations occur in the cases of the Reading and its subsidiary the Atlantic City Railroad Co.; the Pennsylvania and the Baltimore, Chesapeake & Atlantic; the Union Pacific and the Oregon-Washington Railroad & Navigation Co., and the Burlington and the Quincy, Omaha & Kansas City.

Two conclusions might be drawn from these examples. One, and it appears very logical, is that if the weak roads in question were not subsidiaries, they could not survive, and that the original theory of consolidation is supported because their low earning power is averaged with that of the strong parent company. On the other hand, it might be said that their connections with stronger systems have not benefited them and that unless a policy of compulsory consolidation is adopted strong systems will not sacrifice their strength by taking in roads like these which can not earn their way, even with powerful affiliations.

Thirty roads listed by Senator Cummins, hearings S. 1870, as earning more than 3 per cent but less than 4 per cent

	Average return 1922, 1923, 1924	Average return 1927, 1928, 1929
Subsidiaries of other roads (not included in acquisitions):		
Arizona Eastern R. R. Co. (Southern Pacific).....	3.62	(1)
Central New England Ry. Co. (New Haven).....	3.94	(2)
Central Railroad of New Jersey (Reading).....	3.40	4.77
Chicago, St. Paul, Minneapolis & Omaha (Chicago & North Western).....	3.79	2.63
Galveston, Harrisburg & San Antonio (Southern Pacific).....	3.59	(3)
Minneapolis, St. Paul & Sault Ste. Marie (Canadian Pacific Ry.).....	3.41	3.80
New Orleans & Northeastern (Southern).....	3.39	4.29
Port Reading R. R. Co. (Reading).....	3.51	1.88
West Jersey & Seashore R. R. Co. (Pennsylvania).....	3.03	3.53
Yazoo & Mississippi Valley R. R. Co. (Illinois Central).....	3.54	2.72
Independent roads (not included in acquisitions):		
Chicago & North Western Ry. Co. ....	3.33	3.99
Chicago, Rock Island & Pacific Ry. Co. ....	3.85	5.02
Delaware & Hudson Co. ....	3.98	5.69
Gulf, Mobile & Northern R. R. Co. ....	3.49	3.70
Kansas City Southern Ry. Co. ....	3.05	3.89
Maine Central R. R. Co. ....	3.65	4.23
Mississippi Central R. R. Co. ....	3.45	4.03
New York, New Haven & Hartford R. R. Co. ....	3.73	6.44
Norfolk Southern R. R. Co. ....	3.63	3.97
Northern Pacific Ry. Co. ....	3.31	3.70
Pennsylvania R. R. Co. ....	3.74	4.94
Seaboard Air Line Ry. Co. ....	3.31	3.52
Tennessee Central Ry. Co. ....	3.52	5.05
Wabash Ry. Co. ....	3.07	3.99
Included in acquisitions of control, 1921-1930:		
Buffalo & Susquehanna R. R. Corporation by Baltimore & Ohio, 1930.....	3.18	2.34
Carolina, Clinchfield & Ohio by Atlantic Coast Line, 1924.....	3.90	4.04
El Paso & Southwestern Ry. Co. by Southern Pacific, 1924.....	3.90	(4)
Texas & Pacific Ry. Co. by Missouri Pacific, 1924.....	3.51	4.80
Duluth & Iron Range R. R. Co. by Duluth, Missabe & Northern, 1930.....	3.80	5.67
New Orleans Great Northern R. R. by Gulf, Mobile & Northern, 1930.....	3.55	2.63

<sup>1</sup> Leased 1924, no record.

<sup>2</sup> Merged 1927, no record.

<sup>3</sup> Leased Mar. 1, 1927, no record.

<sup>4</sup> No reports, leased 1924 to Southern Pacific.

#### INDEPENDENT ROADS IN THIS CLASS SHOW GREATER IMPROVEMENT THAN SUBSIDIARIES

Making a comparison similar to that of the groups of roads earning less than 3 per cent, it will be noted that of the roads which during the period 1922-1924 earned more than 3 per cent and less than 4 per cent, the independent roads have made a better showing than have the subsidiaries.

Average return, 1927-1929	Subsidiaries of 7 reporting	Independent roads of 14 reporting
Over 4 per cent.....	2, or 28.57 per cent.....	7, or 50 per cent.
3 to 4 per cent.....	2, or 28.57 per cent.....	7, or 50 per cent.
2 to 3 per cent.....	2, or 28.57 per cent.....	
1 to 2 per cent.....	1, or 14.29 per cent.....	

Of the seven subsidiaries reporting for 1927-1929, four showed a gain over 1922-1924, while three showed a loss.

Of the 14 independent roads, all showed a gain over 1922-1924.

#### PRESENT CONDITION OF RAILROADS

##### ADDITIONAL STATISTICS UNDER OTHER HEADS

In the abstract of the pamphlet *The Consolidation Equation*, by Herman W. Ordeman, and in the statement of the Association of

Railway Executives, appearing under the head *Opinions Students of Consolidation* not in Hearings, page 148, et seq., *infra*, are presented arguments as to the present condition of the railroads of the United States, with figures supporting the contentions of each. While total figures as to the prosperity of all the railroads of the country, and as to potential competition, bear more particularly upon problems of rates and general regulation, they are of some value in a consideration of consolidations, especially as bearing upon the question of the necessity of adopting or maintaining a policy of consolidation in order to preserve the transportation system of the country.

#### PRESENT CONDITION OF CLASS I ROADS

The statistics following may be of some interest as indicating the present condition of the Class I roads, and their progress during the past six years.

A computation of the average returns of all Class I roads for the period 1927-1929, numbering 196, shows the following as an indication of present condition:

Average return 1927-1929	
Over 6 per cent.....	34
5 to 6 per cent.....	24
4 to 5 per cent.....	32
3 to 4 per cent.....	31
Under 3 per cent.....	48
Not reporting (leased roads, etc.).....	27
	196

Of these roads, 82 may be termed independent, being neither subsidiaries, nor roads the stock of which is owned by two or more carriers. These 82 roads show the following average rates of return for the period 1927-1929:

Over 6 per cent.....	14
5 to 6 per cent.....	14
4 to 5 per cent.....	20
3 to 4 per cent.....	19
Under 3 per cent.....	15
	82

#### ROADS NOT LISTED AS WEAK IN 1924 SHOW GENERAL GOOD CONDITION

The 80 Class I roads not included by Senator Cummins in his lists of weak roads, reporting for the years 1927-1929, show the following average returns:

	Independent	Subsidiary	Total
Over 6 per cent.....	11	19	
5 to 6 per cent.....	9	7	16
4 to 5 per cent.....	10	7	17
3 to 4 per cent.....	4	4	8
Under 3 per cent.....	11	8	9
	35	45	80

<sup>1</sup> Florida East Coast Ry. Co., earnings of which dropped from \$1.1 in 1926 (4.9 average for five years 1922-1926, inclusive), to 0.48 in 1927, following business depression in Florida.

## DECREASE IN NUMBER OF ROADS SHOWING LOW RETURN SINCE 1924

It will be noted from these comparisons that while in 1922-1924 100 class I roads were earning less than 4 per cent, that number has been reduced to 79. As against 70 roads earning less than a 3 per cent average for that period, the 1927-1929 period shows only 48 in that class.

## INDEPENDENT ROADS SHOW GREATEST IMPROVEMENT

Of the 82 independent roads, only 15 earned an average of less than 3 per cent for 1927-1929, as against 37 for 1922-1924.

Of the roads earning more than 4 per cent in 1922-1924, only one independent road, the Florida East Coast, has fallen below 3 per cent, as against eight subsidiary roads, and of such roads earning between 3 per cent and 4 per cent, the independents and subsidiaries are equal in number.

Always, also, it must be kept in mind, as suggested at page 108, supra, that an actual valuation of any road may make a considerable difference in the rate of return shown.

## CLASS II AND III ROADS NOT PROSPEROUS

An examination of the statistics for 1928 as to Class II and III roads discloses a condition not so favorable as in the case of the Class I roads. Of 256 Class II roads reporting in 1928, 134 had a net income over interest and fixed charges and 122 a deficit.

Of these 256 Class II roads, 113 were not subsidiaries of other roads or industries. Of these 113, 56 showed a net income over interest and fixed charges and 57 a deficit.

Of 330 Class III roads reporting for that year, 131 showed a net income over interest and fixed charges and 199 a deficit. Of these 330, 212 were not subsidiaries of other roads or of industries and of these 212, 93 showed a net income over interest and fixed charges and 119 a deficit.

## AVERAGE DIVIDENDS PAID BY ALL CARRIERS SHOW STEADY INCREASE SINCE 1922

A record of dividends paid by all roads in the United States of every class as shown by Statistics of Railways in the United States for 1928 shows a steady increase in the per cent of stock yielding dividends and in the ratio of dividends declared to all stock. From December 31, 1921, to December 31, 1929, inclusive, the record is as follows:

	Per cent of stock yielding dividends	Ratio of dividends declared to all stock
Dec. 31, 1921.....	56.92	5.13
Dec. 31, 1922.....	59.38	3.78
Dec. 31, 1923.....	62.09	4.53
Dec. 31, 1924.....	64.97	4.14
Dec. 31, 1925.....	66.70	4.35
Dec. 31, 1926.....	69.12	5.06
Dec. 31, 1927.....	70.25	5.95
Dec. 31, 1928.....	73.65	5.25
Dec. 31, 1929.....	76.23	5.70

The itemized figures for 1929 show the following ratio of dividends declared to all stock:

Class I companies and their nonoperating subsidiaries, 5.80.

Class II companies and their nonoperating subsidiaries, 2.15.

Class III companies and their nonoperating subsidiaries, 1.27.

The following are the ratios of dividends declared to all stock from December 31, 1921, to December 31, 1929, inclusive:

	Ratio of dividends declared to stock		
	Class I companies	Class II companies	Class III companies
Dec. 31, 1921.....	5.35	0.94	0.86
Dec. 31, 1922.....	3.88	1.46	.49
Dec. 31, 1923.....	4.62	2.30	.87
Dec. 31, 1924.....	4.20	1.99	.73
Dec. 31, 1925.....	4.45	1.81	.71
Dec. 31, 1926.....	5.16	2.29	.82
Dec. 31, 1927.....	6.09	1.98	.71
Dec. 31, 1928.....	5.35	2.31	.54
Dec. 31, 1929.....	5.80	2.15	1.27

## ACQUISITIONS OF CONTROL UNDER PARAGRAPH 2, SECTION 5, 1920-1930

## LARGE PERCENTAGE OF ACQUISITIONS NOT NEW

An examination of the record of acquisitions of control under paragraph 2 of section 5 is interesting as an indication of what absorptions may be expected under a policy of voluntary consolidation.

Of 347 such acquisitions of control between March 1, 1920, and October 31, 1930, involving an aggregate mileage of 56,441.45, 217 orders did not involve new acquisitions (except belt lines and terminals), being classed as follows:

Acquisitions of control of carriers (reorganizations, further control, etc.) which were subsidiaries or members of the system of the acquiring carrier prior to acquisition or which were constructed during the year of acquisition.....	39
Belt lines and terminals acquired.....	37
Leases of subsidiaries or of subsidiaries of other members of same system, subsidiary relationship existing prior to lease.....	110
Operating contracts with subsidiaries.....	18
Leases of small portion of road.....	9
Express companies.....	2
Electric railway.....	1
Miscellaneous contract.....	1
Total.....	217



This leaves, therefore, for examination 130 acquisitions, involving 151 roads or systems, by purchase of stock, lease, or purchase of stock and lease, as follows:

*Acquisitions of control, 1920 to 1930*

I. C. C. No.		Miles of road	How acquired
<i>Year ended Oct. 31, 1921</i>			
70-20	Chicago, Terre Haute & Southeastern Ry. Co. (I) by Chicago, Milwaukee & St. Paul Ry. Co.	298.09	Purchase of stock and lease
67-513	Evansville, Indianapolis & Terre Haute Ry. Co. (II) by Cleveland, Cincinnati, Chicago & St. Louis Ry. Co.	134.15	Purchase of stock.
70-31	Wisconsin & Northern R. R. Co. (II) by Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.	133.58	Purchase of property.
70-485	Texas State R. R. Co. (State road) by Texas & New Orleans R. R. Co. (Southern Pacific).	32.60	Purchase of stock.
<i>Year ended Oct. 31, 1922</i>			
72-85	Rockingham R. R. Co. (III) by Atlantic Coast Line R. R. Co.	21.40	Do.
72-552	Indian Creek & Northern R. R. Co. (unclassified) by Baltimore & Ohio R. R.	2.60	Do.
71-124	Chicago, Milwaukee & Gary Ry. Co. (II) by Chicago, Milwaukee & St. Paul Ry. Co.	108.05	Do.
70-795	Arizona & New Mexico Ry. Co. (II) by El Paso & Southwestern Co.	108.00	Purchase of stock and lease.
72-722	Austin Dam & Suburban Ry. Co. (unclassified) by International & Great Northern Ry. Co.	2.55	Purchase of stock.
71-190	Saratoga & Encampment Ry. Co. (III) by Union Pacific R. R. Co.	44.77	Lease (now expired and not renewed).
<i>Year ended Oct. 31, 1923</i>			
79-328	Black Mountain R. R. Co. (III) by Louisville & Nashville R. R. Co.	8.29	Purchase of stock and lease.
82-155	Miami Mineral Belt R. R. Co. (II) by St. Louis-San Francisco Ry. Co.	14.14	Purchase of stock.
76-508	Central Pacific Ry. Co. (I) by Southern Pacific Co.	3,325.06	Stock ownership and lease.
<i>Year ended Oct. 31, 1924</i>			
90-113	Carolina, Clinchfield & Ohio Ry. (I), Carolina, Clinchfield & Ohio Ry. of South Carolina (I), and Clinchfield Northern Ry. of Kentucky (I) by Atlantic Coast Line R. R. Co. and Louisville & Nashville R. R. Co.	276.85	Lease.
90-413	Statesboro Northern Ry. (III) by Georgia & Florida Ry.	40.00	Purchase of stock and lease.
90-161	Denver & Rio Grande Western R. R. Co. (I) by Missouri Pacific R. R. Co.	2,604.00	Purchase of stock (one-half interest).
86-808	Texas & Pacific Ry. Co. (I) by Missouri Pacific R. R. Co.	1,647.84	Purchase of stock.
90-815	Franklin & Abbeville Ry. Co. (II) by Morgan's Louisiana & Texas R. R. & Steamship Co. (Southern Pacific).	40.08	Do.
86-587	Houston & Brazos Valley Ry. (II) by New Orleans, Texas & Mexico Ry. Co. (Missouri Pacific).	28.48	Do.
90-262	International & Great Northern R. R. Co. (I) by New Orleans, Texas & Mexico Ry. Co. (Missouri Pacific).	1,159.50	Do.
94-5	Kansas City, Clinton & Springfield Ry. Co. (II) by St. Louis-San Francisco Ry. Co. and Kansas City, Fort Scott & Memphis Ry. Co.	155.00	Lease and acquisition of stock.
90-732	El Paso, Southwestern System (I) by Southern Pacific Co.	1,139.87	Purchase of stock and lease.
<i>Period Nov. 1, 1924, to Aug. 31, 1925</i>			
90-193	Moore Haven & Clewiston Ry. Co. (III) by Atlantic Coast Line R. R. Co.	14.00	Do.
94-224	Baltimore & Eastern R. R. Co. (II) by Baltimore, Chesapeake & Atlantic Ry. Co. (Pennsylvania).	40.00	Do.
90-553	Sandy Valley & Elkhorn Ry. Co. (II) by Chesapeake & Ohio Ry. Co.	31.00	Do.
94-295	Ashland Coal & Coke Ry. Co. (III), Long Fork Ry. Co. (II), and Millers Creek R. R. Co. by Chesapeake & Ohio Ry. Co.	27.66 36.31 4.53	Lease.
14-701	San Antonio & Aransas Pass Ry. Co. (I) by Southern Pacific Co. (lease to Galveston, Harrisburg & San Antonio Ry. Co.)	729.00	Purchase of stock and lease.

*Acquisitions of control, 1920 to 1930—Continued*

I. C. C. No.		Miles of road	How acquired
<i>Period Nov. 1, 1924, to Aug. 31, 1925—Continued</i>			
90-169	Gulf & Ship Island R. R. Co. (I) by Illinois Central R. R. Co.	307.56	Purchase of stock.
90-7	Herford Ry. Co. (III) by Maine Central R. R. Co.	52.55	Do.
94-191	New Orleans, Texas & Mexico Ry. Co. (I) by Missouri Pacific R. R. Co.	900.00	Do.
94-360	Scott's Run Ry. Co. (II) by Monongahela Ry. Co.	23.70	Purchase of stock and lease.
90-43	Buck Creek Ry. Co. (III) by Norfolk & Western Ry. Co.	1.24	Lease.
90-319	Lake Tahoe Railway & Transportation Co. (III) by Southern Pacific Co.	16.50	Do.
90-450	New Park & Fawn Grove R. R. (III) by Stewartson R. R. Co.	7.20	Do.
90-382	Sacramento Northern Ry. (III) by Western Pacific Ry. Co.	165.03	Purchase of stock.
<i>Period Sept. 1 to 31, 1925</i>			
90-207	Rural Valley R. R. (III) by Buffalo, Rochester & Pittsburgh Ry. Co.	11.70	Lease.
94-753	Jonesboro, Lake City & Eastern R. R. Co. (II) by St. Louis San Francisco Ry. Co.	86.50	Purchase of stock and lease.
<i>Period Oct. 1, 1925, to Sept. 31, 1926</i>			
111-69	Fresno Interurban Ry. Co. (III) by Atchison, Topeka, & Santa Fe Ry. Co.	17.50	Do.
111-468	New Mexico Central Ry. Co. (II) by Atchison, Topeka & Santa Fe Ry. Co.	116.00	Do.
111-542	Healdton & Santa Fe Ry. Co. by Atchison, Topeka & Santa Fe Ry. Co.	36.00	Purchase of stock.
111-124	Cincinnati, Indianapolis & Western R. R. Co. (I) by Baltimore & Ohio R. R. Co.	308.63	Do.
105-800	Pond Fork & Bald Knob R. R. Co. (III) by Chesapeake & Ohio Ry. Co.	13.10	Do.
105-459	Springfield, Havana & Peoria Ry. Co. (III) by Chicago & Illinois Midland Ry. Co.	77.02	Purchase of stock and lease.
111-542	Oklahoma, New Mexico & Pacific Ry. Co. and Ringling & Oil Fields Ry. Co. by Gulf, Colorado & Santa Fe Ry. Co. (Santa Fe). (Same transaction as acquisition of Healdton & Santa Fe above. Healdton was organized to take over Oklahoma, New Mexico & Pacific & Ringling, on account of Oklahoma laws, and road then leased to Gulf, Colorado & Santa Fe.)	36.00	Lease.
111-587	Jackson & Eastern Ry. Co. (III) by Gulf, Mobile & Northern R. R. Co.	33.00	Purchase of stock.
105-131	Kansas City & Grandview Ry. Co. (III) by Kansas City Southern Ry. Co.	13.48	Do.
111-551	Cumberland & Manchester R. R. Co. (II) by Louisville & Nashville R. R. Co.	25.59	Purchase of stock and lease.
111-707	Marion & Eastern R. R. Co. (III) by Missouri Pacific R. R. Co.	10.00	Purchase of stock and lease.
105-79	Asherton & Gulf Ry. Co. (III), Rio Grande City Ry. Co. (III), and Sugarland Ry. Co. (II) by New Orleans, Texas & Mexico Ry. Co. (Missouri Pacific).	93.04	Do.
105-35	San Antonio Uvalde & Gulf R. R. Co. (I) by New Orleans, Texas & Mexico Ry. Co. (Missouri Pacific).	315.58	Do.
117-158	Bailey Run, Sugar Creek & Athens Ry. Co. (III) by New York Central R. R. Co.	3.60	Do.
105-490	Western Allegheny R. R. Co. (II) by Pennsylvania R. R. Co.	47.89	Do.
105-99	Muscle Shoals, Birmingham & Pensacola R. R. (II) by St. Louis, San Francisco Ry. Co.	159.03	Do.
105-249	Charlotte Harbor & Northern Ry. Co. (II) by Seaboard Airline Ry. Co.	95.36	Purchase of stock and lease.
105-383	Tuvalu & Gulf R. R. Co. (III) by Seaboard Airline Ry. Co.	33.95	Purchase of stock.
105-320	Brooksville & Inverness Ry. (III) by Seaboard Airline Ry. Co.	18.74	Purchase of stock and lease.
105-282	Holton Interurban Ry. Co. (III) by Southern Pacific Co.	104.77	Purchase of stock.
105-792	Dayton-Goose Creek R. R. Co. (II) by Southern Pacific Co.	25.14	Do.
105-792	Nevada-California-Oregon Ry. (II) by Southern Pacific Co.	154.63	Do.
105-792	Oregon-California & Eastern Ry. Co. (II) by Southern Pacific Co.	40.00	Do.
105-43	Ann Arbor R. R. Co. (I) by Wabash Ry. Co.	293.70	Do.
111-161	Alabama & Vicksburg Ry. Co. and Vicksburg, Shreveport & Pacific Ry. Co. (I) by Yazoo & Mississippi Valley R. R. Co. (Illinois Central).	329.00	Lease.

## Acquisitions of control, 1920 to 1930—Continued

I. C. C. No.		Miles of road	How acquired
<i>Period Oct. 1, 1920, to Sept. 30, 1927</i>			
117-181	Atlanta, Birmingham & Coast R. R. Co. (I) by Atlantic Coast Line R. R. Co.	640.00	Purchase of stock.
117-219	Columbia, Newberry & Laurence R. R. Co. (II) by Atlantic Coast Line R. R. Co.	75.00	Do.
117-564	Cheat Haven & Brucetou R. R. Co. (III) by Baltimore & Ohio R. R. Co.	6.50	Do.
124-373	Houston, North Shore Ry. Co. (III) by Beaumont, Sour Lake & Western Ry. Co. (Missouri Pacific).	26.00	Purchase of stock and lease.
124-195	Sewell Valley R. R. Co. (II) by Chesapeake & Ohio Ry. Co.	32.28	Do.
124-195	Loop & Lookout R. R. Co. (II) by Chesapeake & Ohio Ry. Co.	18.97	Do.
124-397	Goshen Valley R. R. Co. (III) by Denver & Rio Grande R. R. Co.	9.05	Do.
117-213	New Orleans & Lower Coast R. R. Co. (I) by Missouri Pacific R. R. Co.	59.70	Purchase of stock.
124-430	Birmingham & Northwestern Ry. Co. (II) by Gulf, Mobile & Northern R. R. Co.	49.50	Purchase of stock and lease.
117-329	Chartiers, Southern Ry. Co. (II) by Monongahela Ry. Co.	12.94	Do.
117-311	San Antonio Southern Ry. Co. (II) by New Orleans, Texas & Mexico Ry. (Missouri Pacific).	38.72	Purchase of stock.
131-105	Butler County R. R. Co. (II) by St. Louis, San Francisco Ry. Co.	49.52	Purchase of stock and lease.
131-105	St. Louis, Kennett & Southeastern R. R. Co. (III) by St. Louis-San Francisco Ry. Co.	16.94	Do.
124-623	Jacksonville, Gainesville & Gulf Ry. (II) by Seaboard Airline Ry. Co.	56.00	Purchase of stock.
131-125	Gainesville, Midland R. R. Co. (II) by Seaboard Airline Ry. Co.	33.00	Do.
131-125	Central California Traction Co. (III) by Southern Pacific Co.	55.00	Do.
124-523	Smoky Mountain R. R. (III) by Tennessee & North Carolina Ry. Co.	27.80	Lease.
124-369	Ablene & Southern Ry. Co. (II) by Texas & Pacific Ry. Co. (Missouri Pacific).	96.79	Purchase of stock and bonds.
117-447	Cisco & Northeastern Ry. Co. (II) by Texas & Pacific Ry. Co. (Missouri Pacific).	28.20	Purchase of stock.
124-740	Pecos Valley Southern Ry. Co. (III) by Texas & Pacific Ry. Co. (Missouri Pacific).	40.40	Do.
117-517	Clarion River Ry. Co. (III) by Tionesta Valley Ry. Co.	12.00	Lease.
131-119	Wichita Falls, Ranger & Fort Worth R. R. Co. (II) by Wichita Falls & Southern R. R. Co.	74.80	Purchase of stock, bonds, and lease.
<i>Period Sept. 30, 1927, to Oct. 31, 1928</i>			
143-350	Kansas City, Mexico & Orient Ry. Co. (I) by Atchison, Topeka & Santa Fe Ry. Co.	272.00	Purchase of stock.
138-787	Clinton & Oklahoma Western R. R. Co. and Clinton & Oklahoma Western R. R. Co. of Texas (II) by Atchison, Topeka & Santa Fe Ry. Co. and Panhandle & Santa Fe Ry. Co.	143.00	Purchase of stock and lease.
138-85	Greenbrier & Eastern R. R. Co. (II) by Chesapeake & Ohio Ry. Co.	10.95	Do.
138-517	Pere Marquette Ry. Co. (I) by Chesapeake & Ohio Ry. Co.	2,286.13	Purchase of stock.
138-99	Oregon-California & Eastern Ry. Co. (II) by Great Northern Ry. Co.	50.00	Purchase of stock (one-half interest).
138-487	St. Louis, Troy & Eastern R. R. Co., St. Louis & Illinois Belt Ry., St. Louis Electric Terminal Ry. Co., and Illinois Traction (Inc.), (II) by Illinois Terminal Co.	458.00	Lease.
138-313	Chester & Mount Vernon R. R. Co. (III) by Missouri Pacific R. R. Co.	64.83	Do.
145-651	Nicholas Fayette & Greenbrier R. R. Co. (III) by New York Central R. R. Co. and Baltimore & Ohio R. R. Co.	29.00	Purchase of stock and lease.
131-733	Georgia, Florida & Alabama R. R. Co. (II) by Seaboard Air Line Ry. Co.	192.00	Do.
138-205	Texas Midland R. R. (II) by Southern Pacific Co. and Texas & New Orleans R. R. Co.	125.26	Do.
145-83	Saratoga & Encampment Valley R. R. Co. (III) by Union Pacific R. R. Co.	44.77	Purchase of stock.
131-599	Chesapeake & Curtis Bay R. R. Co. (III) by Western Maryland Ry. Co.	2.05	Do.
131-525	Greenbrier, Cheat & Elk R. R. Co. (III) by Western Maryland Ry. Co.	39.00	Purchase of stock and lease.

## Acquisitions of control, 1920 to 1930—Continued

I. C. C. No.		Miles of road	How acquired
<i>Period Nov. 1, 1928, to Oct. 31, 1929</i>			
154-769	Kansas City, Mexico & Orient Ry. Co. of Texas (I) by Atchison, Topeka & Santa Fe Ry. Co.	465.75	Purchase of stock.
154-338	Reynoldsville & Falls Creek R. R. Co. (III) by Buffalo, Rochester & Pittsburgh Ry. Co.	12.65	Lease.
154-657	Casey & Kansas R. R. Co. (III) by Kansas & Sidell R. R. Co.	20.00	Do.
150-477	Louisiana Railway & Navigation Co. (I) by Louisiana & Arkansas Ry. Co.	330.55	Purchase of stock.
154-311	Mississippi River and Bonne Terre Ry. (II) by Missouri-Illinois R. R. Co. (Missouri Pacific).	62.00	Do.
154-77	Missouri-Illinois R. R. Co. (II) by Missouri Pacific R. R. Co.	136.50	Do.
150-635	Gideon & North Island R. R. Co., Deering Southwestern Ry., and Blytheville, Leachville & Arkansas Southern R. R. Co. (III) by St. Louis Southwestern Ry. Co.	62.23	Do.
150-119	Northwestern Pacific R. R. Co. (I) by Southern Pacific Co.	514.68	Purchase of stock (one-half interest of; Santa Fe, previously owned one-half).
150-604	Texas Short Line Ry. Co. (III) by Texas & Pacific Ry. Co. (Missouri Pacific).	1.04	Purchase of stock.
<i>Period Nov. 1, 1929, to Oct. 31, 1930</i>			
	Wildwood & Delaware Bay Short Line R. R. Co. (II) by Atlantic City R. R. Co.	4.20	Do.
	Buffalo & Susquehanna R. R. Corporation (I) by Baltimore & Ohio R. R. Co.	253.00	Do.
	Buffalo, Rochester & Pittsburgh Ry. Co. (I) by Baltimore & Ohio R. R. Co.	370.00	Do.
	West River R. R. Co. (III) by Brattleboro & Whitehall R. R. Co.	35.70	Do.
	Wharton & Northern R. R. Co. (II) and Mount Hope Mineral R. R. Co. by Central R. R. Co. of New Jersey.	20.57 3.64	Do.
	Bethel Granite Ry. Co., Southern New England Ry. Co., Southern New England R. R. Corporation, Montreal & Province Line Ry. Co., Montreal & Vermont Junction Ry. Co., Stanstead, Shefford & Chamby R. R. Co., and Central Vermont Transportation Co. (water carrier) (unclassified) by Central Vermont Ry. Inc.	105.05	Do.
	Big Sandy & Kentucky River Ry. Co. (II) by Chesapeake & Ohio Ry. Co.	25.50	Do.
	Duluth & Iron Range R. R. Co. (I) by Duluth, Missabe & Northern Ry. Co.	269.77	Lease.
	Marion Railway Corporation (III), by Elmira & Lake Ontario R. R. Co.	8.38	Purchase of stock.
	New Orleans, Great Northern R. R. Co. (I), by Gulf, Mobile & Northern R. R. Co.	239.56	Exchange of stock.
	St. Louis & Alton Ry. Co. (II), Alton & Eastern R. R. Co., and East St. Louis & Suburban Ry. Co., by Illinois Terminal Co.	33.00 38.00 6.00	Lease.
	Yale Short Line R. R. Co. (III), by Kansas & Sidell R. R. Co.	13.00	Do.
	Carrollton R. R. (III), by Louisville & Nashville R. R. Co.	10.00	Purchase of stock.
	Beaver, Meade & Englewood R. R. Co. (III), by Missouri, Kansas & Texas R. R. Co.	65.10	Do.
	Federal Valley R. R. Co. (III), by New York Central R. R. Co.	16.00	Do.
	Sewell Valley R. R. Co., Loop & Lookout R. R. Co., and Greenbrier & Eastern R. R. Co., by New York Central R. R. Co. (joint control with Chesapeake & Ohio, of which roads were formerly subsidiaries).	40.35 18.77 10.98	Do.
	Shawnee Interurban Ry. Co. (unclassified), by Oklahoma City, Ada & Atoka Ry. Co.	39.00	Do.
	New York & Long Branch R. R. Co. (II), by Pennsylvania R. R. Co.	38.00	Purchase of stock; joint control with Central of New Jersey.
	Trenton-Princeton Traction Co. (unclassified), by Reading Co.	12.56	Purchase of stock.
	Gulf, Texas & Western Ry. Co. (II), by St. Louis-San Francisco Ry. Co.	99.60	Do.
	Miami Mineral Belt R. R. Co. (II), by St. Louis-San Francisco Ry. Co.	11.00	Lease.
	Gulf, Texas & Western Ry. Co. (II), by St. Louis, San Francisco & Texas Ry. Co.	99.60	Do.
	Clackamas Eastern R. R. Co. (unclassified), by Southern Pacific Co.	17.00	Purchase of stock.
	Chaffee R. R. Co. (III), by Western Maryland Ry. Co.	3.50	Do.

## NEW ACQUISITIONS CLASSIFIED

Of the 151 roads or systems included in the 130 acquisitions, there were of—

Class I.....	25
Class II.....	53
Class III and unclassified short lines.....	72
State road.....	1
Total.....	151

## MILEAGE ACQUIRED PRINCIPALLY CLASS I ROADS

The total mileage involved in the 130 acquisitions above listed is 24,251.69 miles. Of this 14,946.08 miles is accounted for by the following 10 acquisitions of larger roads and systems, all in Class I:

Southern Pacific acquisition of Central Pacific.....	3,325.06
Missouri Pacific acquisition of Denver & Rio Grande.....	2,604.00
Missouri Pacific acquisition of Texas & Pacific.....	1,647.84
New Orleans, Texas & Mexico acquisition of International and Great Northern.....	1,159.50
Southern Pacific acquisition of El Paso Southwestern system.....	1,139.87
Southern Pacific acquisition of San Antonio & Aransas Pass Ry. Co.....	729.00
Atlantic Coast Line acquisition of Atlanta, Birmingham & Coast R. R. Co.....	640.00
Southern Pacific acquisition of Northwestern Pacific R. R. Co.....	514.68
Chesapeake & Ohio acquisition of Pere Marquette.....	2,286.13
Missouri Pacific acquisition of New Orleans, Texas & Mexico.....	900.00
	14,946.08

The remaining Class I roads of which control was acquired were:

Chicago, Terre Haute & Southeastern by Chicago, Milwaukee & St. Paul.....	Miles 208.09
Carolina, Clinchfield & Ohio by Atlantic Coast Line.....	276.85
Gulf & Ship Island R. R. by Illinois Central R. R.....	307.56
Cincinnati, Indianapolis & Western by Baltimore & Ohio.....	308.63
San Antonio, Uvalde & Gulf by Missouri Pacific.....	315.58
Ann Arbor R. R. Co. by Wabash Ry. Co.....	293.70
Alabama & Vicksburg and Vicksburg, Shreveport & Pacific by Yazoo & Mississippi Valley R. R. Co.....	329.00
Louisiana Railway & Navigation Co. by Louisiana & Arkansas Ry. Co.....	330.55
Kansas City, Mexico & Orient and Kansas City, Mexico & Orient of Texas by Santa Fe.....	737.75
Buffalo & Susquehanna R. R. Corporation by Baltimore & Ohio.....	253.00
Buffalo, Rochester & Pittsburgh Ry. Co. by Baltimore & Ohio.....	370.00
New Orleans Great Northern R. R. Co. by Gulf, Mobile & Northern.....	239.56
Duluth & Iron Range R. R. Co. by Duluth, Missabe & Northern Ry. Co. (lease).....	269.77
	4,240.04

## WEAK ROADS ACQUIRED

Therefore, of the 24,251.69 miles included in these 130 acquisitions, 19,186.12 miles were included in 23 acquisitions of Class I roads, leaving 5,065.57 miles of Class II and Class III roads in the 107 acquisitions covering those classes.

Of the 46 Class I railroads referred to as weak lines in Senator Cummins's newspaper article, incorporated in the pamphlet "Railway Transportation in the United States" (only 25 of which were independent roads, as above noted) 8 roads have been acquired by

others, to wit: Cincinnati, Indianapolis & Western by Baltimore & Ohio, 1926; Atlanta, Birmingham & Atlantic by Atlantic Coast Lines, 1927; Kansas City, Mexico & Orient by Santa Fe, 1928; Kansas City, Mexico & Orient of Texas (subsidiary of above) by Santa Fe, 1928; San Antonio & Aransas Pass by Southern Pacific, 1925 (Southern Pacific previously guaranteed obligations and paid interest, hearings, S. 1175, p. 152); San Antonio, Uvalde & Gulf by Missouri Pacific, 1925; Louisiana Railway & Navigation Co. by Louisiana & Arkansas Railway Co., 1929; Buffalo, Rochester & Pittsburgh by Baltimore & Ohio, 1930.

Of the 70 roads listed in the hearings on S. 1870 as earning less than 3 per cent for the years 1922, 1923, 1924, one independent road in addition to the eight above, is included in the acquisitions of control above listed, to wit, Ann Arbor Railroad Co. acquired by Wabash, 1925.

Of the 30 roads listed as earning more than 3 per cent, but less than 4 per cent, 6 are included: Carolina, Clinchfield & Ohio, by Atlantic Coast Line, 1924; El Paso & Southwestern, by Southern Pacific, 1924; Texas & Pacific, by Missouri Pacific, 1924; Buffalo & Susquehanna, by Baltimore & Ohio, 1930; Duluth & Iron Range, by Duluth, Missabe & Northern, 1930; New Orleans Great Northern, by Gulf, Mobile & Northern, 1930.

In other words, out of the Class I roads classified by Senator Cummins as weak by showing of earnings for 1922, 1923, and 1924, 15, including the El Paso Southwestern System and the Texas Pacific, each of which earned over 4 per cent in 1924, the Clinchfield, with an average return of 3.90 for the 3 years, and the Duluth & Iron Range, which earned an average of 5.67 per cent for the 3 years prior to its acquisition, are included in the 151 roads acquired since the effective date of the transportation act.

## HAVE ACQUISITIONS ACCOMPLISHED ANTICIPATED BENEFITS?

## STATISTICS OF ROADS ACQUIRED SINCE 1920 NOT SUFFICIENT AS BASIS FOR CONCLUSION

No conclusion can be reached by an examination of statistics as to the effects of consolidation upon roads classified as weak; control of which has been acquired by larger systems, either because of individual conditions, or because of the brief time of operation since acquisition, or because since acquisition, separate returns have not been made, the earnings of the acquired roads being included in the reports of the acquiring system. The last situation exists with the Cincinnati, Indianapolis & Western, the San Antonio & Aransas Pass, the Kansas City, Mexico & Orient, the Kansas City, Mexico & Orient of Texas; and the Louisiana Railway & Navigation Co. While the Ann Arbor shows an increase of return and a decrease in expense ratio after acquisition, the Atlanta, Birmingham & Atlantic shows a continued deficit and a continued excessive expense ratio, and the San Antonio, Uvalde & Gulf shows no particular change. The Kansas City, Mexico & Orient and Kansas City, Mexico & Orient of Texas show a remarkable increase in earning power and an extraordinary decrease in expense ratio in 1928 after acquisition by the Santa Fe (p. 113).



An examination of the statements of these two roads (Statistics of Railways of the United States, I. C. C. 1928) shows that the large decreases in expenses in 1928 came from credits to the operating expense accounts, particularly maintenance, required by the commission. While the revenues for 1927 exceeded those of 1928, in the case of the Texas company, by over a million dollars, the 1927 statement shows a return of only 3.45 per cent while the 1928 return shows 24.7 per cent, and the expense ratio drops from 81.9 per cent to 45.4 per cent.

#### LARGE EXPENSE RATIOS OF WEAK ROADS INDICATE PROBABLE LACK OF ECONOMY

In the tabulations above is given a statement of the ratio of expenses of operation to revenues for these weak roads which have been acquired.

It will be noted that the roads in question all had a high ratio of operating expenses to revenues, indicating that probably lack of economy in management had some considerable effect on the rate of return.

#### NO SUFFICIENT STATISTICS AS TO ROADS EARNING BETWEEN 3 AND 4 PER CENT FOR 1922-1924

As to the acquisitions of roads listed by Senator Cummins as earning more than 3 per cent but less than 4 per cent, no definite conclusion can be drawn from the statistics. Of the 6 such acquisitions, 3 were in 1930; there are no reports on the El Paso & Southwestern since its lease by the Southern Pacific in 1924; the Clinchfield shows a slight increase of return since its acquisition and the Texas and Pacific quite a considerable increase (p. 116).

#### SAN ANTONIO UVALDE & GULF AND ORIENT BENEFIT BY ACQUISITIONS

It has been stated on page 125 that the San Antonio, Uvalde & Gulf shows no particular change. This is true so far as the statistics are concerned. However, by reference to the testimony of Mr. Fulbright, it will be noted that the acquisition by the Missouri Pacific was of great benefit to the people along the line of this road in the way of service. This is also probably true so far as the Kansas City, Mexico & Orient is concerned.

#### CLASS I ROADS NOT CLASSED BY SENATOR CUMMINS AS WEAK ACQUIRED SINCE 1920 SHOW NO INCREASE OF RETURN

Following is a comparative statement of rates of return earned by Class I roads included in acquisitions of control since 1921, not classed as weak in the tables offered at the hearings on S. 1870. The Central Pacific, previously controlled by the Southern Pacific, the Buffalo, Rochester & Pittsburgh, which was acquired in 1930, and the Chicago, Terre Haute & Southeastern, acquired in 1921, are not included, there being no basis for comparison; and the Alabama & Vicksburg and Vicksburg, Shreveport & Pacific are omitted because of their having been leased and no separate reports having been made.

	Average return 1922, 1923, and 1924	Average return 1927, 1928, and 1929
International & Great Northern by New Orleans, Texas & Mexico, 1924 (Missouri Pacific).....	Per cent 4.41	Per cent 3.90
Pere Marquette by Chesapeake & Ohio, 1928 (average return 3 years prior to acquisition, 6.12).....	5.02	6.06
New Orleans, Texas & Mexico by Missouri Pacific, 1924.....	6.79	3.55
Gulf & Ship Island by Illinois Central, 1925.....	4.78	(1)

<sup>1</sup> Deficit.

The only remaining Class I road acquired is the Denver & Rio Grande Western, a half interest in which was obtained by the Missouri Pacific in 1924, the stock having been previously owned by the Western Pacific:

Average return 1922, 1923, and 1924.....	1.99
Average return 1927, 1928, and 1929.....	3.32

#### INCREASED RATE OF RETURN MISSOURI PACIFIC SYSTEM SINCE ACQUISITIONS

The foregoing figures illustrate the difficulty of reaching a conclusion by taking the statistics of but a few roads. It will be noted that the International Great Northern and New Orleans, Texas & Mexico, which became parts of the Missouri Pacific system in 1924, show a shrinkage in rate of return, while the Texas & Pacific, acquired by the same system in the same year, shows an increase of return (p. 116).

The Missouri Pacific system has been largely built up since 1920, and a comparison of earnings of the roads now constituting that system, individually and considered as groups before and since the building up of the system, may be of interest. While it may not accurately represent the situation as it would exist in case of a true consolidation or merger, since some economies which might be effected under such a consolidation or merger possibly could not be accomplished, it must be assumed that every effort would be made to effect all economies possible and to reap the maximum of benefits claimed for consolidation programs.

There has been prepared by the bureau of statistics of the Interstate Commerce Commission a complete statement with reference to the investment, net railway operating income, and rate of return of the roads now constituting the Missouri Pacific system for the years 1922, 1923, 1924, 1927, 1928, and 1929. The date mentioned is shown as to each road, as to the two systems incorporated within the Missouri Pacific system, and as to the system as a whole.

Small discrepancies between the rates of return shown by these tables and those used elsewhere herein taken from the complete statement 1921-1929 attached to this report, are due to the fact that the complete table includes as a part of investment for the years 1923-1929, inclusive, cash and materials and supplies, while the tables as to the Missouri Pacific system cover only investment in road and equipment. However, since the same basis is used for all years in these tables, the differences are immaterial.



Summarized, these tables show the following average returns for the periods used as a basis of comparison in this report:

	Average return, 1922-1924	Average return, 1927-1929
New Orleans, Texas & Mexico system.....	5.77	3.97
Texas & Pacific system.....	3.63	5.01
Missouri Pacific R. R.....	2.72	4.13
Entire Missouri Pacific system.....	3.36	4.27

From this statement it appears that while the Gulf Coast System shows a drop in earnings the increase in the return of the Texas & Mexico and of the Missouri Pacific Railroad Co. has been sufficient to raise the return for the whole system from 3.36 to 4.27 per cent.

Attention should be directed to the fact that the Missouri Pacific System as built up since 1920 was developed by the acquisition of systems which were stronger than the acquiring system, and not by the acquisition of weak roads. This fact was noted by Mr. Cain of the American Short Line Railroad Association in his testimony, referred to at page 74 supra.

Following are the tables prepared by the commission:

*Average rate of return of roads now constituting the Missouri Pacific system, with separate returns for the New Orleans, Texas & Mexico, and Texas & Pacific groups of that system, years 1922, 1923, 1924, 1927, 1928, and 1929*

Name of road	New Orleans, Texas & Mexico group					
	1922			1923		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
New Orleans, Texas & Mexico Ry. Co. <sup>1</sup>	\$18,211,441	\$1,344,567	7.38	\$18,613,886	\$1,176,275	6.32
Asherton & Gulf Ry. Co. <sup>2</sup>	371,482	13,946	3.73	372,618	561	.23
Asphalt Belt Ry. Co. <sup>3</sup>						
Beaumont, Sour Lake & Western Ry. Co.	3,326,076	263,606	7.93	3,379,409	362,274	10.72
Houston & Brazos Valley Ry. Co. <sup>4</sup>	1,031,084	3,364		1,184,470	14,844	
International & Great Northern R. R. Co. <sup>5</sup>	40,662,986	1,318,389	3.24	42,221,673	2,176,504	5.15
New Iberia & Northern R. R. Co.	3,006,119	29,731		3,056,003	170,823	
Orange & Northwestern R. R. Co.	1,240,623	64,792	5.18	1,235,974	6,559	.53
Rio Grande City Ry. Co. <sup>6</sup>						
St. Louis, Brownsville & Mexico Ry. Co. <sup>7</sup>	16,393,985	1,142,882	6.97	16,568,842	1,905,563	11.50
San Antonio Southern Ry. Co. <sup>8</sup>	313,941	29,592	9.43	337,883	30,938	9.16
San Antonio, Uvalde & Gulf R. R. Co. <sup>9</sup>						
San Benito & Rio Grande Valley Ry. Co.	5,673,802	7,269	.13	5,744,955	117,264	2.04
Sugar Land Ry. Co. <sup>10</sup>	1,089,185	10,719	.98	1,108,531	18,090	1.63
	939,573	60,121	6.40	998,507	60,874	6.10
Total.....	92,272,197	4,222,690	4.58	94,823,351	5,660,635	5.98

<sup>1</sup> Control acquired by Missouri Pacific, purchase of stock, Dec. 8, 1924.

<sup>2</sup> Control acquired by New Orleans, Texas & Mexico, purchase of stock, 1926.

<sup>3</sup> Constructed, 1926.

<sup>4</sup> Control acquired by New Orleans, Texas & Mexico, purchase of stock, 1924.

<sup>5</sup> Deficit.

<sup>6</sup> Represents return of International & Great Northern Ry. Co. for 11 months ended Nov. 30, 1922, and of International & Great Northern R. R. Co. for the month of December, 1922.

<sup>7</sup> Control acquired by New Orleans, Texas & Mexico, purchase of stock, 1927.

*Average rate of return of roads now constituting the Missouri Pacific system, with separate returns for the New Orleans, Texas & Mexico, and Texas & Pacific groups of that system, years 1922, 1923, 1924, 1927, 1928, and 1929—Continued.*

Name of road	New Orleans, Texas & Mexico group					
	1924			1927		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
New Orleans, Texas & Mexico Ry. Co.	\$18,344,273	\$1,368,349	7.46	\$19,104,137	\$301,833	1.58
Asherton & Gulf Ry. Co.	391,445	2,743	.70	374,999	131,517	5.82
Asphalt Belt Ry. Co.				349,909	19,315	
Beaumont, Sour Lake & Western Ry. Co.	3,469,826	410,144	11.82	5,651,828	157,189	
Houston & Brazos Valley Ry. Co.	1,833,996	29,046	1.58	1,805,235	15,965	.88
International & Great Northern R. R. Co.	45,136,893	2,572,289	5.70	55,085,967	2,178,180	3.95
New Iberia & Northern R. R. Co.	3,139,987	143,494		3,292,959	127,941	
Orange & Northwestern R. R. Co.	1,241,243	110,509		1,261,664	16,749	
Rio Grande City Ry. Co.				360,119	3,532	.98
St. Louis, Brownsville & Mexico Ry. Co.	16,940,227	2,177,108	12.85	25,765,364	1,682,780	6.53
San Antonio Southern Ry. Co.	350,163	27,687	7.91	354,953	22,774	6.42
San Antonio, Uvalde & Gulf R. R. Co.						
San Benito & Rio Grande Valley Ry. Co.	5,915,500	140,761	2.38	6,332,479	95,020	1.50
Sugar Land Ry. Co.	1,100,177	45,006	4.09	1,885,776	153,745	6.09
	1,083,165	55,993	5.16	990,596	58,546	6.09
Total.....	98,949,895	6,875,123	6.75	122,586,015	3,943,804	3.22

Name of road	New Orleans, Texas & Mexico group					
	1928			1929		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
New Orleans, Texas & Mexico Ry. Co.	\$19,376,296	\$921,710	4.76	\$19,891,805	\$1,022,464	5.14
Asherton & Gulf Ry. Co.	387,623	8,680	2.24	409,956	130,866	
Asphalt Belt Ry. Co.	363,440	9,279	2.55	459,678	11,915	2.59
Beaumont, Sour Lake & Western Ry. Co.	5,974,260	69,818	1.17	6,424,161	161,346	2.51
Houston & Brazos Valley Ry. Co.	1,812,117	95,489	5.27	1,827,620	96,203	5.43
International & Great Northern R. R. Co.	56,876,685	2,627,076	4.62	58,263,897	2,266,944	3.89
New Iberia & Northern R. R. Co.	3,412,199	130,872		3,424,042	157,221	
Orange & Northwestern R. R. Co.	1,286,242	142,503		1,308,948	111,809	
Rio Grande City Ry. Co.	364,320	43,342	11.90	369,371	17,682	4.79
St. Louis, Brownsville & Mexico Ry. Co.	26,912,589	1,994,796	7.41	28,826,450	1,984,096	6.88
San Antonio Southern Ry. Co.	363,963	85	.02	377,177	27,701	7.34
San Antonio, Uvalde & Gulf R. R. Co.						
San Benito & Rio Grande Valley Ry. Co.	6,495,838	169,341	2.61	6,948,219	27,114	.39
Sugar Land Ry. Co.	2,262,083	115,799		2,466,676	12,474	
	935,822	47,854	5.11	963,036	25,415	2.64
Total.....	126,823,782	5,798,296	4.57	131,961,036	5,441,510	4.12

<sup>1</sup> Deficit.

Average rate of return of roads now constituting the Missouri Pacific system, with separate returns for the New Orleans, Texas & Mexico, and Texas & Pacific groups of that system, years 1922, 1923, 1924, 1927, 1928, and 1929—Continued.

Name of road	Texas & Pacific group					
	1922			1923		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
Texas & Pacific Ry. Co. <sup>1</sup>	\$127,767,726	\$3,629,473	2.84	\$132,597,718	\$5,237,535	3.95
Arlene & Southern Ry. Co. <sup>1</sup>	1,133,258	50,181	4.35	1,172,023	62,885	5.37
Cisco & Northeastern Ry. Co. <sup>1</sup>	1,359,321	32,610	2.35	1,487,188	55,586	3.74
Denison & Pacific Suburban Ry. Co.	228,315	30,274	13.26	229,272	12,236	5.33
Pecos Valley Southern Ry. Co. <sup>1</sup>	495,169	5,452	1.10	491,539	11,960	2.43
Texas Short Line Ry. Co. <sup>1</sup>	304,093	7,411	2.44	304,193	1,294	0.43
Weatherford, Mineral Wells & Northwestern Ry. Co.	942,039	6,931	.74	957,901	4,473	.47
Total	132,279,921	3,660,880	2.79	137,239,834	5,358,909	3.90
Name of road	1924					
	1924			1927		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
Texas & Pacific Ry. Co.	\$136,684,234	\$5,801,611	4.24	\$155,775,824	\$6,497,569	4.17
Arlene & Southern Ry. Co.	1,174,334	54,874	4.67	1,287,717	139,766	10.85
Cisco & Northeastern Ry. Co.	1,485,830	24,182	1.63	1,853,722	17,575	.95
Denison & Pacific Suburban Ry. Co.	229,304	768	.33	264,672	13,402	5.06
Pecos Valley Southern Ry. Co.	452,156	6,676	1.48	494,959	6,215	1.25
Texas Short Line Ry. Co.	316,560	474	.15	302,545	12,316	4.07
Weatherford, Mineral Wells & Northwestern Ry. Co.	963,410	27,146	2.82	1,765,707	119,987	6.80
Total	141,305,828	5,925,731	4.19	161,245,146	6,767,596	4.20
Name of road	1928					
	1928			1929		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
Texas & Pacific Ry. Co.	\$169,337,470	\$10,446,475	6.17	\$180,042,982	\$8,778,383	4.88
Arlene & Southern Ry. Co.	795,065	90,599	11.39	824,461	95,779	11.62
Cisco & Northeastern Ry. Co.	2,091,013	8,253	.39	3,029,517	16,670	.55
Denison & Pacific Suburban Ry. Co.	281,243	30,763	10.94	288,690	52,015	18.02
Pecos Valley Southern Ry. Co.	500,331	26,750	5.35	508,080	9,770	1.92
Texas-New Mexico Ry. Co.	285,435	6,134	2.15	1,085,056	73,494	6.77
Texas Short Line Ry. Co.	285,435	6,134	2.15	279,150	43,079	15.43
Weatherford, Mineral Wells & Northwestern Ry. Co.	1,755,526	81,271	4.63	1,750,358	66,912	3.82
Total	175,946,103	10,624,417	6.04	187,808,294	8,996,758	4.79

<sup>1</sup> Control acquired by Missouri Pacific, purchase of stock, 1924.

<sup>2</sup> Control acquired by Texas & Pacific, purchase of stock, 1927.

<sup>3</sup> Deficit.

<sup>4</sup> Control acquired by Texas & Pacific, purchase of stock, 1929.

<sup>5</sup> Deficit.

Average rate of return of roads now constituting the Missouri Pacific system, with separate returns for the New Orleans, Texas & Mexico, and Texas & Pacific groups of that system, years 1922, 1923, 1924, 1927, 1928, and 1929—Continued

Name of road	Other roads in Missouri Pacific system					
	1922			1923		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
Missouri Pacific R. R. Co.	\$385,758,166	\$8,247,035	2.14	\$398,702,693	\$8,893,245	2.23
New Orleans & Lower Coast R. R. Co. <sup>1</sup>	623,914	20,671	3.31	623,914	7,169	1.15
Missouri-Illinois R. R. Co. <sup>1</sup>	3,159,067	115,485	3.66	3,350,859	190,231	5.68
Mississippi River & Bonne Terre Ry. <sup>1</sup>	3,836,203	199,914	5.21	3,829,754	176,542	4.61
Marion & Eastern R. R. Co. <sup>1</sup>	448,261	457	.10	462,250	4,303	.93
Wabash, Chester & Western R. R. Co. <sup>1</sup>	2,364,913	194,263	8.22	2,493,746	74,695	3.00
Total, Missouri Pacific system	620,742,642	16,301,975	2.63	641,526,401	20,225,289	3.15
Name of road	1924					
	1924			1927		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
Missouri Pacific R. R. Co.	\$417,631,612	\$15,817,584	3.79	\$484,310,931	\$16,899,498	3.49
New Orleans & Lower Coast R. R. Co.	625,225	12,013	1.92	759,959	380,301	50.00
Missouri-Illinois R. R. Co.	3,455,154	193,068	5.59	3,653,253	203,266	5.56
Mississippi River & Bonne Terre Ry.	3,809,307	216,567	5.69	3,748,544	195,449	5.21
Marion & Eastern R. R. Co.	546,752	23,674	4.33	520,812	18,157	3.49
Wabash, Chester & Western R. R. Co.	2,494,399	78,430	3.14	2,523,121	40,609	1.61
Total, Missouri Pacific system	668,818,172	28,737,982	4.30	779,356,781	27,006,860	3.54
Name of road	1928					
	1928			1929		
	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)	Investment in road and equipment (accounts 701 and 702) including leased and proprietary companies	Net railway operating income	Rate of return (per cent)
Missouri Pacific R. R. Co.	\$500,694,916	\$21,347,536	4.26	\$529,949,650	\$24,554,185	4.63
New Orleans & Lower Coast R. R. Co.	681,066	68,235	10.02	1,131,740	94,773	8.38
Missouri-Illinois R. R. Co.	3,832,324	227,460	5.94	7,604,558	512,755	6.83
Mississippi River & Bonne Terre Ry.	3,743,905	213,184	5.69	3,743,905	213,184	5.69
Wabash, Chester & Western R. R. Co.	2,523,121	13,745	.54	2,523,121	13,745	.54
Total, Missouri Pacific system	814,445,217	38,128,913	4.68	858,355,278	39,410,435	4.59

<sup>1</sup> Control acquired by Missouri Pacific, purchase of stock, 1927.

<sup>2</sup> Control acquired by Missouri Pacific, purchase of stock, 1929.

<sup>3</sup> Control acquired by Missouri-Illinois R. R. Co., purchase of stock, 1929.

<sup>4</sup> Control acquired by Missouri Pacific, purchase of stock, 1926.

<sup>5</sup> Deficit.

<sup>6</sup> Control acquired by Chester & Mount Vernon (subsidiary of Missouri Pacific), April, 1928.

<sup>7</sup> Represents rate of return for 2 months ended Feb. 25, 1927.

<sup>8</sup> Deficit.

<sup>9</sup> Represents return for period Jan. 1 to Apr. 12, 1928.

#### COMPARATIVE PROGRESS OF INDEPENDENT AND SUBSIDIARY ROADS

Reference has already been made to the comparative progress of roads which were subsidiaries of larger systems and of independent roads between 1922, 1923, and 1924 and 1927, 1928, and 1929 (pp. 114-116).

## DO LARGE SYSTEMS EARN GREATER RETURN OR OPERATE MORE EFFICIENTLY BECAUSE OF SIZE?

In the concurring opinion of Commissioner Eastman on the consolidation plan, he sets forth the comparative earnings of certain larger and smaller systems, as a refutation of the argument that it is necessary for a system to be as large as another in order to compete effectively with it. The figures given in the opinion and based upon commission valuations are for a 3-year period ending December 31, 1927. Following is a similar comparison based upon the investments reported by the railroads for the period 1927, 1928, and 1929.

(In order to further illustrate the difference in rate of return which may be shown if valuation be taken instead of the carriers' figures as to investment, the figures given by Commissioner Eastman as to rates of return upon basic valuations of the commission, brought up to date by net additions and betterments since valuation dates, are first shown; next the average for the same period, 1925, 1926, and 1927, using the rates of return based on investment or book value, and finally the average rates of return for 1927, 1928, and 1929, based also on book value.)

Road	Mileage	Average 1925-1927 commission valuation	Average 1925-1927 book value	Average 1927-1929 book value
Pennsylvania.....	10,466.72	4.77	4.51	4.94
New York Central.....	6,911.72	4.96	4.85	4.29
Central of New Jersey.....	690.52	5.08	4.41	4.77
Lehigh Valley.....	1,363.68	5.15	4.71	4.36
Delaware, Lackawanna & Western.....	995.82	6.22	6.12	5.87
Baltimore & Ohio.....	5,637.69	6.36	5.21	5.09
Wabash.....	2,524.20	6.72	4.19	3.96
Western Maryland.....	862.14	6.75	3.31	3.69
Reading.....	1,140.76	7.70	5.22	4.24
Nickel Plate (New York, Chicago & St. Louis).....	1,690.54	7.73	4.87	4.39

It will be seen, even using book value, that the roads of shorter mileage compare more than favorably with the larger systems. However, a very marked discrepancy is to be noted between the two methods of figuring return, especially in the cases of the Wabash, the Reading, the Western Maryland, and the Nickel Plate, and to some extent in the case of the Baltimore & Ohio.

\* Listing the same roads in order of mileage, we find the ratio of operating expenses to revenues does not decrease in proportion to the size of the road or system. The average ratios for the years 1927-1929 are as follows:

	Mileage	Ratio		Mileage	Ratio
Pennsylvania.....	10,466.72	74.29	Reading.....	1,140.76	77.80
New York Central.....	6,911.72	76.09	Delaware, Lackawanna, & Western.....	995.82	71.05
Baltimore & Ohio.....	5,637.69	74.03	Western Maryland.....	862.14	67.86
Wabash.....	2,524.20	74.58	Central of New Jersey.....	690.52	73.01
Nickel Plate.....	1,690.54	71.44			
Lehigh Valley.....	1,363.68	76.29			

## LITTLE FALL IN RATIO GENERAL EXPENSE TO REVENUES AFTER REVENUES REACH \$50,000,000

Doctor Lorenz, of the Interstate Commerce Commission, has prepared a table and chart comparing general expenses of the larger Class I carriers with revenues, for the year 1929. It will be noted from this table and chart that there is not much fall in the ratio of general expenses to railway operating revenues after the revenues pass about \$50,000,000 annually.

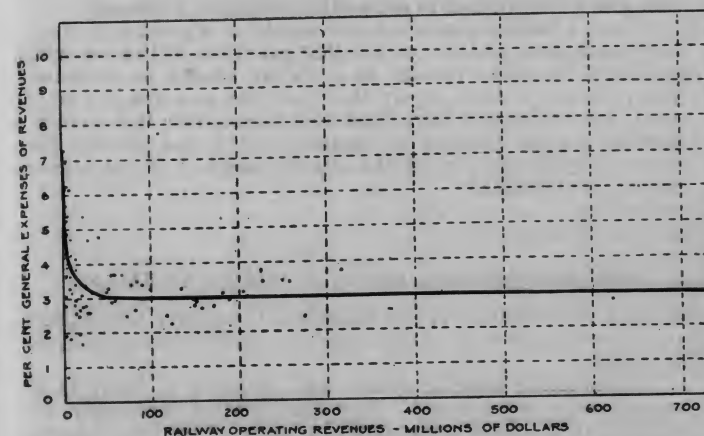
General expenses of Class I steam railways in relation to rail line, and water line transportation expenses and to total railway operating revenues, for the year ended December 31, 1929

Name of railway or system	General expenses (millions)	Transportation expenses, rail and water (millions)	Railway operating revenues (millions)	Per cent (b) of (c)	Per cent (b) of (d)
(a)	(b)	(c)	(d)	(e)	(f)
Pennsylvania system.....	\$20.8	\$255.3	\$734.5	8.15	2.83
New York Central lines.....	17.3	213.6	623.5	8.11	2.76
Southern Pacific system.....	11.8	105.6	317.2	11.20	3.73
Santa Fe system.....	6.7	773.8	270.6	9.08	2.48
Atlantic Coast Line system.....	8.7	86.9	254.8	10.06	3.43
Baltimore & Ohio system.....	8.5	84.2	248.1	10.03	3.41
Missouri Pacific system.....	8.0	73.6	222.9	10.82	3.57
Union Pacific system.....	8.6	64.0	221.3	13.37	3.87
Illinois Central system.....	6.3	74.9	209.0	8.37	3.00
Southern system.....	6.4	68.5	204.4	9.76	3.13
Burlington Route.....	5.5	60.6	189.3	9.14	2.93
Chicago & North Western system.....	5.6	68.3	182.0	8.23	3.09
Chicago, Milwaukee, St. Paul & Pacific R. R. Co.....	4.6	60.5	171.4	7.68	2.71
Reading system.....	4.3	59.7	159.3	7.17	2.68
New Haven system.....	4.4	48.7	154.7	9.04	2.85
Chesapeake & Ohio system.....	4.1	37.9	150.7	10.68	2.74
Rock Island system.....	4.4	52.1	147.7	8.86	2.95
Erie system.....	4.4	50.2	135.8	8.85	3.27
Great Northern Ry. Co.....	2.8	38.4	125.9	7.26	2.21
Norfolk & Western Ry. Co.....	2.9	25.9	117.6	11.27	2.48
Northern Pacific Ry. Co.....	3.1	32.3	96.5	9.67	3.24
Frisco lines.....	3.0	28.9	88.2	10.31	3.38
Wabash system.....	2.9	30.4	82.9	9.50	3.48
Delaware, Lackawanna & Western R. R. Co.....	2.1	31.6	81.7	6.73	2.60
Lehigh Valley R. R. Co.....	2.6	27.0	78.5	9.79	3.37
Canadian Pacific system.....	1.8	28.5	71.7	6.22	2.47
Seaboard Air Line Ry. Co.....	1.8	22.0	59.7	8.01	2.96
New York, Chicago & St. Louis R. R. Co.....	2.1	20.2	58.2	10.63	3.69
Missouri-Kansas-Texas lines.....	1.6	19.5	56.4	8.20	2.83
Canadian National system.....	2.1	16.1	56.0	12.77	3.68
Pere Marquette Ry. Co.....	1.7	19.2	51.1	8.65	3.26
Delaware & Hudson Co.....	1.5	15.9	48.5	9.55	3.13
Denver & Rio Grande Western R. R. Co.....	2.0	14.7	41.4	13.33	4.74
Chicago & Alton R. R. Co.....	1.1	10.2	34.8	10.73	3.15
Elgin, Joliet & Eastern Ry. Co.....	.7	10.4	26.7	7.04	2.56
St. Louis Southwestern lines.....	.7	9.3	26.4	7.32	2.56
Chicago Great Western R. R. Co.....	1.2	8.1	25.9	15.03	4.68
Chicago & Eastern Illinois Ry. Co.....	.7	10.3	25.8	6.89	2.74
Kansas City Southern system.....	.9	9.4	25.4	9.12	3.36
Wheeling & Lake Erie Ry. Co.....	1.2	6.2	22.0	18.88	5.31
Duluth, Missabe & Northern Ry. Co.....	.6	6.0	21.3	9.64	2.72
Maine Central R. R. Co.....	.3	3.4	20.6	10.14	1.66
Virginian Ry. Co.....	.6	7.4	20.3	8.38	3.06
Western Maryland Ry. Co.....	.4	3.9	19.9	9.99	1.96
Chicago, Indianapolis & Louisville Ry. Co.....	.5	5.0	19.0	10.09	2.63
Bessemer & Lake Erie R. R. Co.....	.4	6.3	18.1	7.05	2.47
Buffalo, Rochester & Pittsburgh Ry. Co.....	.5	3.9	17.1	11.63	2.54
Western Pacific R. R. Co.....	.5	6.4	17.8	8.27	2.97
Minneapolis & St. Louis R. R. Co.....	.6	6.1	17.7	9.83	3.37
Detroit, Toledo & Ironton R. R. Co.....	.6	6.5	14.7	8.68	3.81
Florida East Coast Ry. Co.....	.4	3.5	14.1	11.12	2.78
Richmond, Fredericksburg & Potomac R. R. Co.....	.6	3.8	13.4	14.45	4.12
Spokane, Portland & Seattle Ry. Co.....	.3	3.9	11.8	11.22	3.69
Bangor & Aroostook R. R. Co.....	.3	2.8	9.4	10.53	3.12
Norfolk Southern R. R. Co.....	.3	2.0	8.1	16.48	3.96
Norfolk Southern R. R. Co.....	.3	3.0	8.1	11.26	4.22

General expenses of Class I steam railways in relation to rail line, and water line transportation expenses and to total railway operating revenues, for the year ended December 31, 1929—Continued

Name of railway or system	General expenses (millions)	Transportation expenses, rail and water (millions)	Railway operating revenues (millions)	Per cent (b) of (c)	Per cent (b) of (d)
(a)	(b)	(c)	(d)	(e)	(f)
Louisiana & Arkansas Ry. Co.	\$0.3	\$2.3	\$7.9	12.19	3.60
Gulf, Mobile & Northern R. R. Co.	.4	2.3	7.6	15.83	4.70
Monongahela Ry. Co.	.1	1.9	7.4	7.22	1.81
Duluth & Iron Range R. R. Co.	.3	1.7	7.8	17.01	3.97
Illinois Terminal Co.	.4	2.4	7.2	18.25	6.12
Rutland R. R. Co.	.2	2.3	6.3	8.80	3.27
Lehigh & New England R. R. Co.	.2	1.7	5.1	11.35	3.94
Detroit & Toledo Shore Line R. R. Co.	.3	1.2	4.9	22.09	4.38
Pittsburgh & West Virginia Ry. Co.	.3	.9	4.7	34.41	6.21
Denver & Salt Lake Ry. Co.	.2	.6	4.0	26.87	4.12
Akron, Canton & Youngstown Ry. Co.	.2	.9	3.8	23.24	5.68
Kansas, Oklahoma & Gulf Ry. Co.	.1	.8	3.7	16.47	3.63
Midland Valley R. R. Co.	.1	.9	3.6	15.42	3.88
Tennessee Central Ry. Co.	.2	1.2	3.3	13.86	4.86
New Orleans Great Northern R. R. Co.	.1	1.0	3.3	14.67	4.41
Lake Superior & Ishpeming R. R. Co.	.1	.7	3.1	14.59	3.05
Chicago & Illinois Midland Ry. Co.	.2	.9	3.1	24.89	6.98
New York Connecting R. R. Co.	.02	.5	3.0	4.71	.70
Trinity & Brazos Valley Ry. Co.	.1	1.0	2.8	14.44	5.22
Lehigh & Hudson River Ry. Co.	.1	.9	2.6	13.57	4.57
Montour R. R. Co.	.09	.6	2.4	15.17	3.60
Toledo, Peoria & Western R. R.	.1	.8	2.3	13.41	4.83
Utah Ry. Co.	.06	.4	2.1	13.15	2.79
Green Bay & Western R. R. Co.	.04	.7	2.0	5.29	1.90
Columbus & Greenville Ry. Co.	.1	.7	1.9	21.60	7.26
Missouri & North Arkansas Ry. Co.	.1	.7	1.9	14.43	5.42
Pittsburg, Shawmut & Northern R. R. Co.	.1	.6	1.8	13.42	4.28
Buffalo & Susquehanna R. R. Corporation	.1	.5	1.8	17.08	5.19
Georgia & Florida R. R.	.1	.7	1.7	15.04	6.12
Mississippi Central R. R. Co.	.1	.4	1.6	23.14	6.08
Detroit & Mackinac Ry. Co.	.1	.5	1.6	15.52	4.73
Fort Smith & Western Ry. Co.	.1	.5	1.5	17.24	5.57
Pittsburg & Shawmut R. R. Co.	.1	.4	1.5	21.07	6.22
Texas Mexican Ry. Co.	.1	.5	1.3	19.74	7.08
Nevada Northern Ry. Co.	.1	.2	1.3	29.92	4.60
San Diego & Arizona Ry. Co.	.1	.3	1.3	32.12	5.22
Wichita Falls & Southern R. R. Co.	.05	.3	1.2	14.89	4.18
Ulster & Delaware R. R. Co.	.05	.5	1.1	9.45	4.51
Louisiana Railway & Navigation Co. of Texas	.1	.5	1.1	14.19	6.02
Bingham & Garfield Ry. Co.	.1	.1	.6	42.38	9.92
First 32 roads or systems	172.4	1,891.5	5,670.0	9.12	3.04
Second 32 roads or systems	17.9	168.2	596.4	10.67	3.35
Third 32 roads or systems	3.5	20.2	73.1	17.33	4.78
Total	193.8	2,079.9	6,279.5	9.32	3.09

# GENERAL EXPENSES AND REVENUES ACCORDING TO SIZE OF SYSTEM.



EFFECTS OF SHORT-HAUL PROVISIONS IN CASES OF CONSOLIDATION—THROUGH ROUTES

Section 15, paragraphs 3 and 4 of the interstate commerce act, dealing with the establishment of through routes and joint rates, provides in substance that the commission may establish through routes but can not require any railroad, without its consent, to embrace in such route (except in certain instances not here material) substantially less than its entire length (including intermediate railroads operated in conjunction with it and under a common management for control), providing the latter route is not unreasonably long.

Commissioner EASTMAN:

## QUESTION OF POWER OF COMMISSION TO REQUIRE EXISTING ROUTES KEPT OPEN

Commissioner Eastman at the hearing on S. 1870 (p. 53) called attention to this provision and to the possible complications which might arise in connection with consolidations by reason of it. He said:

"I have in mind at this point the question of our power to require existing routes to be kept open. Now, that question arose at the hearings in New England on the consolidation plan, which I attended. There was considerable controversy in regard to it. The shippers of New England are very jealous of their present opportunity to ship to and from the West over a great number of different routes, and it was urged that if the New England lines were consolidated with certain trunk lines a good many of those routes would be closed. The reply was made that they could be kept open by condition attached to any grant of approval of such a consolidation. Then, the point was made that such a condition might not be lawful, because there is



another provision in the law which prohibits the short hauling of a carrier, and such a condition would result in short hauling. The point was that we would not have power to attach a condition which ran counter to some other provision of the act.

"Now, I think myself that it is worthy of a great deal of consideration as to whether or not that provision in the law which prohibits the short hauling of a carrier should be continued. The railroads, I think, regard that provision as a sort of a vested right, but so far as I have been able to ascertain it is merely a legislative right granted by statute, and it has already been taken away in the case of the establishment of routes between rail and water lines."

Chairman McMANAMY:

#### CONSOLIDATIONS WILL RESULT IN CIRCUITOUS HAULS

Chairman McManamy, of the Interstate Commerce Commission, in his concurring opinion in re the complete plan of consolidation, said in this regard:

"Maintaining existing routes and channels of trade is the second major requirement. Any consolidation necessarily, to a certain extent, closes some routes but some of the consolidations here proposed will close innumerable routes. The law gives each carrier the right to the long haul. For many years this has been construed as applying only to traffic in possession of a carrier. The Supreme Court in the Subiaco case (278 U. S. 269) broadens this construction and makes it apply to all routes which short haul a carrier. Under this construction some of the consolidations here proposed will result in the circuitous hauling of traffic to an extent that will probably offset all of the benefits which might otherwise result."

In his testimony before this committee at the hearings on S. J. Res. 161 Chairman McManamy elaborated this statement and offered an exhibit showing the number of other routes closed or changed, or proposed to be closed or changed, after the acquisition of control of the Kansas City, Mexico & Orient by the Santa Fe. He said:

"We have made or authorized acquisitions which, in effect, are consolidations, and under the right of the carriers to the long haul, particularly under the Supreme Court decision in the Subiaco case, which is found at 278 United States 269, the carriers may close direct routes and open indirect routes in order to protect themselves in getting the long haul. As a matter of fact, that is what they are doing. I have in mind here a condition which was developed on one of the lines which were allowed to consolidate. We have here on the left of this statement (K. C., M. & O. and Santa Fe) 155 direct routes that have been closed to protect the long haul. And we have on the other side a number of new routes giving that long haul, which are very much longer; that is, they closed the short route and kept open

the long one. For instance, here is one case where a route of 371 miles is closed and one of 410 miles is opened.

\* \* \* \* \*

"Senator BROOKHART. Does the table to which you refer show all the places in the United States where the shorter routes have been closed and the traffic turned to the longer routes?"

"Commissioner McMANAMY. No, sir; it only shows it with reference to one line.

"Senator BROOKHART. One line of railroad?"

"Commissioner McMANAMY. Yes, sir. These tariffs were filed by the one road, so it would get a longer haul.

"The CHAIRMAN. Would not that result when you come to adjust the rates, the haul being longer over the longer route than the shorter, that it maintains rates that are higher?"

"Commissioner McMANAMY. Yes; when we come to adjust the rates, we can consider that. But it certainly costs more, traffic conditions being equal, to haul a car of freight 200 miles than to haul it 100 miles.

"The CHAIRMAN. So that these short routes having been closed and more circuitous routes having been adopted, in fact, it maintains a higher rate?"

"Commissioner McMANAMY. Yes; that is true. Here is what I think with respect to it: Certainly, we are advised that there may be shorter routes which are made possible by consolidation. We do not know, until after the consolidations are brought about, how many longer routes are going to be put in to protect the long haul. There are two sides to the question.

"The CHAIRMAN. Is there any provision in the law whereby you can have that settled in advance, as to the amount of competition?"

"Commissioner McMANAMY. No, sir; I do not know of any. In fact, I think the law, read in the light of the Supreme Court decision, gives the carrier the right to do just what I refer to."

ALTON C. DUSTIN:

#### SMALL ROAD SUFFERS FROM CLOSING OF ROUTES

In a statement filed with the committee at the hearings on Senate Joint Resolution 161, by Alton C. Dustin, president of the Fort Smith & Western Railroad Co., a short and weak line, he stated with reference to the effect of the Santa Fe acquisition of the Orient of short lines in that section, page 96:

"Several mergers of railroads have already taken place in the southwestern part of the United States and each one necessarily adversely affects us and every other short line in that section. As an illustration: Prior to the time the Santa Fe Railroad was permitted to acquire the Orient Railroad there was shipped approximately 1,000 carloads of railroad ties annually from the eastern part of our line to the Orient Railroad. Our revenues on this business were about \$40,000 per annum. With the merger of the Orient line with the Santa Fe this business disappeared. We experienced the same thing growing out of a recent acquisition by the Midland Valley Railroad. For some years the Midland

Valley Railroad has controlled the Kansas City, Oklahoma & Gulf Railroad. Our interchange business was very considerable. Recently the Midland Valley acquired the line running from Oklahoma City to Ada, Okla. Our interchange business has now disappeared. I could give other instances."

Dr. HOWARD C. KIDD:

#### ADVANTAGES OF OPEN GATEWAYS

In his study of railroad consolidations in the State of Pennsylvania, to which more complete reference will be made in another portion of this report, Dr. Howard C. Kidd discusses the long-haul policy and its possible effect in cases of consolidation, with special reference to the proposed acquisition of the Reading by the B. & O.

Calling attention to the present open gateway policy of the Reading he says:

"The mere existence of physical connections between the Reading and other railroads does not of itself insure the competition of these lines for traffic of which the Reading is either the originating or the delivering carrier. It is necessary to couple this physical element with a rate policy under which traffic will move.

"Rates may be divided into two classes—local and joint or through. For movements of freight beyond the lines of an originating carrier, the rate charged may be the sum of local rates, or it may be the through rate.

"The through rate is lower than the sum of the local rates. It follows, therefore, that if traffic moves via some junction points on the basis of a through or joint rate, and via others on the basis of the sum of local rates, it will not be long until the latter gateways become practically closed. Out of this situation arise the terms, 'open gateways' and 'closed gateways.'

"If a railroad maintains open gateways with all its connecting carriers, it is obvious that they are in a position to compete for traffic that is destined to their own territory or to the territories that they reach indirectly through connections. On the other hand, the limitation of open gateways automatically restricts the element of competition so far as connecting lines are concerned, and forces traffic to move over definite routes.<sup>1</sup>

"The maintenance of open gateways is therefore a factor of prime importance in determining the effectiveness of railroad competition.

#### PRESENT ADVANTAGES OPEN GATEWAYS ON READING

"The distinctive feature of Reading policy is the maintenance of open gateways via all connecting carriers.

"The policy of maintaining open gateways not only affects the movement of traffic from and to the territory of the connec-

<sup>1</sup> Mr. J. L. Eysmans, vice president in charge of traffic, Pennsylvania Railroad, states this position as follows: "If there is no joint rate in effect . . . we could not compete for traffic." Stenographer's minutes, Docket 22290, p. 371. Hearings, May 21, 22, 23, 1930.

tions of the Reading, but its influence also extends to distant points that are only indirectly connected with the Reading. As an example of the flexibility of routing which Reading clients enjoy, a shipper located at Reading, Pa., has an option of 322 routes over which through rates are quoted in consigning freight to Peoria, Ill.<sup>2</sup>

"It is apparent that the ability to route shipments to and from the West over such roads as the Baltimore & Ohio, the New York Central, the Erie, the Pennsylvania, the Delaware, Lackawanna & Western, the Lehigh Valley, and the Western Maryland insures from each carrier high quality of service.

"The competition that the Reading offers its shippers is due to its physical connections with other carriers, and especially to its policy of maintaining open gateways.

#### WILL THE BALTIMORE & OHIO MAINTAIN OPEN GATEWAYS IN CASE OF CONSOLIDATION?

"Will these facilities for routing be maintained if the Reading is merged in the Baltimore & Ohio? Phrased in another way, the important question is: Would the shipper located in Reading territory have the same opportunity to route and receive freight over the connecting lines which he now enjoys, if the Reading were consolidated with the Baltimore & Ohio?

"The long haul is a traffic policy that rests upon the business interests of the carriers, and upon the approval of law.

"A railroad, like every other business enterprise, is primarily interested in making net profits. Its profits are based on revenues, and its revenues come from hauling freight.

"Naturally a railroad keeps tonnage entirely on its own tracks from the point of origin to destination if it is at all possible, because in this way it receives all the revenue from the haul. If tonnage must be turned over to a connection to make delivery, the originating carrier is anxious to carry it as great a proportion of the distance as possible, thereby securing the greater proportion of the revenue. The attempt of carriers to participate in the largest possible proportion of the distance a shipment moves is known as the policy of the long haul.

"No railroad wants to be short hauled any more than a merchant desires a customer to patronize a competitor. So long as there are open gateways, however, the shipper, because of his right to route freight any way he pleases, can compel a railroad to be short hauled.

"If open gateways exist, the power to route freight, therefore, makes the shipper the dictator of railroad competition."

Discussing generally the long-haul policy, he says:

"Important interpretations of this section of the interstate commerce act have been made by the United States Supreme Court and the commission.

<sup>2</sup> Westbound Routing Guide, I. C. C. A-209.

"The court, in the Subiaco case,<sup>3</sup> held that protection against being short hauled applies not only to an originating railroad, or one with freight in its possession, but also to intermediate and delivering carriers. This decision of the United States Supreme Court greatly strengthens the carriers in their efforts to protect their long haul.

"It is significant that the Interstate Commerce Commission interprets this decision as one that 'is likely to result in substantial nullification in many instances of a statutory provision of great importance to shippers \* \* \*.'"

\* \* \* \* \*

"The long haul is such an accepted railroad practice, and is so well recognized in law, that if the enlarged Baltimore & Ohio system did not attempt to bring this policy into play in Reading territory it would be violating a sound business principle. In bringing it into play, however, the Baltimore & Ohio might run counter to the interests of the shippers in Reading territory who now enjoy competitive routing. Assuming a clash of interests, which side would prevail?"

After a discussion as to the probability not only that the B. & O. as a matter of business policy would keep open the existing gateways and routes, but that the commission would undoubtedly insist upon such an agreement as a condition of acquisition, and then quoting the views of students of traffic upon the subject of the possibility of closed gateways in case of consolidation, including the following statement of Commissioner Eastman in the Pere Marquette case (138 I. C. C. 543):

"Following the acquisition of the Pere Marquette the routes via that line will at least be favored, and it may be that various other routes more direct and convenient will be closed to protect the long haul. \* \* \* The majority say that they understand that existing routes will be maintained \* \* \* but there are ways of discouraging the movement of traffic over routes which are not favored. It is a mistake to assume that consolidation or acquisitions of control will tend to promote freedom of traffic movement."

He says:

"The opinions that have been expressed in this chapter indicate the possibility that closing existing routes and channels of trade is a problem of such sufficient importance as to throw doubt upon the advisability of the merger of the Reading with any trunk line system—"

and arrives at the following final conclusions:

"1. The Reading as a terminal line now offers satisfactory competitive shipping facilities.

"2. These competitive facilities would, in the event of merger, undoubtedly be retained for the present.

"3. Serious doubts exist whether the business interests of the Baltimore & Ohio system would justify the permanent maintenance of existing routes and channels of trade. So far as competition is concerned, the shippers in Reading territory would, therefore, be sacrificing a certainty for an uncertainty if the merger were effected."

<sup>3</sup> 278 U. S. 269.

#### INTERSTATE COMMERCE COMMISSION:

##### SHIPPER NOT DISPOSED TO SHORT HAUL LINE ON WHICH SHIPMENTS ORIGINATE

In the opinion of the Interstate Commerce Commission in the matter of control of Central California Traction Co. (131 I. C. C. at p. 135), the commission says:

"It appears that irrespective of the method of operation shippers are inclined to look upon the line of a controlled company as a route of the company which exercises the control. The shipper is not disposed to short haul the line upon which his shipments originated, for a number of reasons. It is known that the line wants the business. Rates and routes being equal the obligation is felt to favor the line upon which the shipments originated; it is apparently understood that when the car is ordered from the originating line the outbound shipment is to be routed over that line; and as has been suggested in the record, even if the privilege of ordering cars from other lines were accorded the shippers, continued exercise of the privilege would be resented by the carrier upon which the initial movement would depend."

#### EFFECTS OF CONSOLIDATIONS ON LABOR

At the hearings on Senate Joint Resolution 161, the following representatives of railway labor organizations appeared and testified, or filed statements, in support of that resolution: Hon. William N. Doak, national legislative representative, Brotherhood of Railroad Trainmen (now Secretary of Labor); representatives of railroad brotherhoods on the Reading Co. system (statement); C. W. Barlow, representing Brotherhood of Railroad Trainmen on the Northern Pacific; E. C. Bradley, general chairman Brotherhood of Railroad Trainmen, Great Northern; Donald R. Richberg, representing railway Labor Executives' Association; F. H. Wilson, representing Order of Railroad Conductors and legislative committee of Minnesota.

While much of the testimony given by these representatives of railway labor dealt with the proposed Great Northern Pacific consolidation, they also gave expression to their views with reference to consolidations generally.

WILLIAM N. DOAK (hearings S. J. Res. 161, p. 241 et seq.):

"The organized railway employees have not the slightest desire to stand in the way of progress, nor do they wish to take any action that is not in the direction of the general welfare of the public at large but at the present time we are confronted with a problem which makes necessary cooperation and concerted action, in common with a great many other citizens, in an effort to prevent what we believe will result in irreparable injury not only to the railroad men but to certain communities and in the instant case to large sections of the country. If the general question of consolidation is to be judged by the precedent established by the merger or unification of the Northern Pacific-Great Northern systems, we are fearful that great onslaughts will be



made on the country at large, which may have far-reaching effect on the railroad men and the several communities involved.

"In considering the consolidation of railways we believe that the general scheme of any plan had as its object the building up of large competing systems, the unification of terminal facilities and taking over under their operation the small unfortunate lines which were an essential part of the general transportation system, thereby affording the public the very best coordinated transportation lines. It is doubtful whether anyone dreamed of a plan of consolidation that would be used as a vehicle to stifle competition, nor could anyone ever have imagined that competing lines serving great sections of the country would be consolidated."

(From resolution of Railway Labor Executives Association, March 31, 1930:)

"For more than a year the chief executives of the railway labor organizations have been considering the effect of railroad consolidations upon railroad workers, both as employees and as a substantial part of the general public dependent upon railroad transportation. They have had special studies made of the effects of consolidation under present law and they have considered carefully legislation now pending in Congress to promote further consolidations.

#### LABOR EXECUTIVES CONVINCED NO PROTECTION FOR EMPLOYEES UNDER PRESENT OR PROPOSED CONSOLIDATION LEGISLATION

"They have become convinced that neither existing law nor any measures now under consideration by Congress provide adequate protection for the interests of either the users of transportation service or the employees who furnish that service. It has become clear that consolidation legislation is being sought largely to aid financiers and promoters to merge railroads and bring about financial reorganizations highly profitable to the manipulators of railroad properties but of doubtful value to the public.

#### EFFICIENCY IMPAIRED WITH INCREASE OF SIZE

"As representatives of railway labor, we know that economical, efficient operation becomes more difficult as a railroad system expands beyond the effective control of a single head. We know that the efficiency of management is distinctly impaired as the size of a property increases beyond that which can be subjected to the constant personal supervision of a single management. We also know that practical managers do not approve or welcome consolidations which mean the ultimate determination of policy by persons remote geographically and remote in interest from the territory served by a railroad.

#### CHANGES IN TRANSPORTATION INDUSTRY INJURE EMPLOYEES

"As representatives of railway labor, we have also watched at close hand the destructive effects upon the employees of changes in the transportation industry, partly the result of programs of

efficiency and economy and partly the result of corporate policies not productive of efficiency and economy.

"When divisions have been lengthened, when terminals and other facilities have been moved and consolidated, losses amounting to millions of dollars, losses of employment which have affected over 200,000 employees, and losses through part-time employment which have affected almost all railroad employees, have been brought about and in many cases the public gain has been questionable.

"Those huge losses of railroad employees are only the beginning of widespread public injury. Hundreds of communities along the lines of consolidating railroad suffer irreparable damage. When railroad workers lose their earnings, their jobs, and their homes, not only are the merchants of their home towns deprived of their customers, but many a community loses its primary basis of prosperity as a shipping and distributing center of railroad traffic. There should be some real assurance of public benefit before the wholesale disintegration of prosperous cities and towns should be encouraged by government.

#### NO ASSURANCE IN PRESENT OR PENDING LEGISLATION THAT PUBLIC INTEREST WILL BE PROTECTED

"It can not be argued by any well-informed person that consolidations of railroads are necessarily advantageous to the public interest. Yet the powers which have been conferred upon the Interstate Commerce Commission and which it is proposed to confer in any pending legislation, fall far short of providing any assurance that the public interest will be protected in future consolidations. Certainly no effort whatsoever has been made up to date to protect the ultimate interests of the railway employees in these consolidations and yet the future efficiency of steam transportation service and the continuity of that service must depend upon preserving the good will and efficient cooperation of 1,750,000 employees who must actually do the work. These men are entitled to have their interests considered and safeguarded."

\* \* \* \* \*

#### BELIEVE LARGER AMOUNT OF ECONOMIES FALL ON SHOULDERS OF EMPLOYEES

(P. 249:)

"If data were analyzed, which were presented to the Interstate Commerce Commission in the Northern Pacific-Great Northern case, it undoubtedly will be found that by far the larger amount of the savings which it is alleged will accrue under that unification plan falls directly on the shoulders of the railroad employees. There is scarcely an economy or savings specified in the petition of these railway companies for unification that is not based almost wholly on labor savings. Therefore, if other consolidations are to have substantially the same effect on the employment situation that is very evident in this particular case, then it is a safe assumption that labor will be unitedly opposed to further consolidations.



"If consolidations continue to augment the present distressing unemployment situation throughout the country, we may with propriety give very serious consideration to this feature alone.

"In 1923 on Class I steam railways in the United States reporting to the Interstate Commerce Commission gave the total number of employees at 1,879,770 and their total compensation at \$3,043,161,163, and for 1929 the number of employees at 1,686,769 and the total compensation paid \$2,940,868,690, or a reduction of 193,001 in the number of employees and a reduction in total compensation of \$102,294,473."

Dr. HOWARD C. KIDD:

In his study of railroad consolidations in Pennsylvania, to which more full reference is made later in this study, Doctor Kidd has summarized the views of railway labor leaders, not only as regards the proposed Reading-Baltimore & Ohio merger, but as to the policy of consolidation generally. Some of these views have just been quoted, and others, as stated by Doctor Kidd, follow:

"As will appear presently, labor views the proposed merger with apprehension. The general problem, as labor sees it, has been stated by the editor of the Railroad Trainman as follows:

"Loss of employment, removal of homes and other probable consequences of consolidation facilities \* \* \* may result in serious and perhaps needless injury to railroad employees. Any plan of consolidation which does not fully take into consideration these probable resulting injuries will undoubtedly meet with the opposition of railroad employees."

\* \* \* \* \*

"It is apparent that railroad labor as a whole believes that it sees looming on its horizon, if the merger is accomplished, the possibility of unemployment, loss of seniority, and a general dislocation of its social life.

#### PROTECTION AFFORDED EMPLOYEES IN GREAT BRITAIN

"In Great Britain, at the time when 120 railroads were consolidated into 4, labor insisted that the following principle be included in the railways act: That every permanent employee be assured work of a nature and grade similar to that to which he had been accustomed, or that he be compensated for the loss of his position.

"Although American legislation in no way safeguards railroad labor in the event of consolidation, the Senate resolution of May 23, 1930, shows that one branch of Congress feels that the situation calls for protection of railway employees similar to that enacted by the British Parliament.

#### DANIEL WILLARD FAVORS LEGISLATION PROTECTING EMPLOYEES

"One is impressed with the sense of human values possessed by Mr. Daniel Willard and his associates in the Baltimore & Ohio. If decisions of general policy were made on a personal basis, and if the present official personnel of the Baltimore & Ohio could determine future policy, we are convinced that in

the event of consolidation labor would be treated with the utmost consideration.

"In testimony before the Senate Committee on Interstate Commerce,<sup>1</sup> Mr. Willard stated that he favored legislation that would protect labor. He pointed out that the Baltimore & Ohio has 68,000 employees. Of this number approximately 750 die annually, and an equal number resign. This means that every five years 7,500 men leave the Baltimore & Ohio. It is Mr. Willard's idea that consolidation would not require any reduction in the number of employees exceeding this annual mortality. Mr. Willard's further comment is as follows:

"If consolidation came about and we found that it was possible \* \* \* to remove a large number of men, I do not feel that we have any right to do that \* \* \* after they have devoted their lives to the service. We would not have any moral right to throw them out of their jobs unless we could give them something else. \* \* \* This is what we would do if the people were not too insistent upon our making economies more rapidly. We would build a fence, we will say, around the property, so to speak, and when men died or left of their own accord, we would not hire from the outside. We would readjust the men inside, and certainly in five or eight years the whole thing would readjust itself. We could get on the lower employee basis with no harm having been done to anybody."

DANIEL WILLARD, President Baltimore & Ohio:

Reference has been made in the quotations from Doctor Kidd's study to the statements of Mr. Willard at the hearings on Senate Joint Resolution 161. One or two further quotations from the same testimony may be of value.

(P. 127:)

#### EIGHTY PER CENT OF ECONOMIES OF CONSOLIDATIONS REPRESENTS LESS WAGES PAID SOMEBODY

"I wanted to explain, before going into that—because the matter seemed somewhat in doubt—this situation, that the economies to be realized eventually by consolidation—and I believe there will be very substantial economies—will come through making it unnecessary to provide as much new capital as might otherwise be necessary. That is one economy.

"The other economies, which can be lumped in one item, are labor and material, less of both needed, probably—particularly labor. In fact, the only way economies can be made to any extent in railroad service is by the use of fewer employees, and with that would always go the use of some less labor. Our figures show that the wages paid for labor constitute about 60 per cent of our total operating expenses, and material about 40 per cent. It is safe to say that of that material probably 50 per cent represents wages paid to labor, so that when a railroad reduces its operating expenses by a dollar, it is a safe thought that 80 per cent of that represents less wages being paid to somebody.

<sup>1</sup> S. J. Res. 161, Hearings Apr. 16, 1930.

"The CHAIRMAN. So, if the Great Northern and the Northern Pacific consolidation went through and saved \$10,000,000 a year, as one of their officials said, \$8,000,000 would be taken out of the pockets of labor.

"Mr. WILLARD. That would be a logical conclusion from what I have just said. I am speaking only in round terms. There may be some other matters, but those, at least, would be the more important matters.

#### FAVORS LEGISLATION SIMILAR TO THAT OF ENGLISH PARLIAMENT

"We must recognize that in accomplishing these economies that seem to have been thought desirable in the public interest, they will be brought about largely by the employment of fewer men, and that certainly does present a problem in which the men have a right to be concerned. As has been stated, I have expressed my views on that on different occasions and I have said that I thought it would only be fair and right if Congress, in legislating on this whole matter, pursued action somewhat similar to that taken by the English Parliament in connection with their amalgamation act. In that act, in round terms, it was provided that men who had been in the employ of the company for five years should not be displaced, and should not be reduced in rank or in compensation, and they should be worked around in such a way as might be until they could be taken care of.

#### STATISTICS:

An examination of the statistics as to labor employed by the Class I roads, control of which has been acquired since 1920, discloses nothing of value. The number of employees often varies from year to year dependent upon the amount of maintenance work done, and whether done by contract or by employees of the railroad. Following are statistics as to number of employees and total wages paid in cases of roads acquired in 1927 or earlier, for the years 1925-1928, inclusive:

	1925	1926	1927	1928
Ann Arbor B. R. Co., by Wabash, Nov. 2, 1925:				
Number of employees.....	1,540	1,625	1,600	1,585
Total wages.....	\$2,453,314	\$2,614,754	\$2,566,291	\$2,631,828
Atlanta, Birmingham & Atlantic, by Atlantic Coast Lines, Jan. 1, 1927:				
Number of employees.....	2,318	2,487	2,384	2,245
Total wages.....	\$3,064,496	\$3,191,801	\$3,035,880	\$2,821,252
Carolina, Clinchfield & Ohio, by Atlantic Coast Lines, 1924:				
Number of employees.....	2,087	1,932	1,791	1,567
Total wages.....	\$3,054,390	\$2,775,217	\$2,688,411	\$2,352,753
Gulf & Ship Island, by Illinois Central, June 1, 1925:				
Number of employees.....	1,215	1,873	1,813	1,277
Total wages.....	\$1,662,369	\$2,306,422	\$1,906,626	\$1,627,996
San Antonio, Uvalde & Gulf, by Missouri Pacific, Nov. 2, 1925:				
Number of employees.....	475	569	599	593
Total wages.....	\$678,769	\$807,501	\$850,399	\$878,123
Texas & Pacific, by Missouri Pacific, Apr. 25, 1924:				
Number of employees.....	10,914	10,937	11,510	13,445
Total wages.....	\$15,618,043	\$15,430,968	\$16,386,235	\$20,097,848
International & Great Northern, by Missouri Pacific, June 12, 1924:				
Number of employees.....	4,934	5,203	5,132	5,201
Total wages.....	\$7,554,799	\$8,075,051	\$8,042,978	\$8,283,666
New Orleans, Texas & Mexico, by Missouri Pacific Dec. 8, 1924:				
Number of employees.....	1,681	1,862	1,806	1,779
Total wages.....	\$2,616,532	\$3,047,296	\$3,119,626	\$3,127,472

#### RAILWAY EMPLOYEES:

The employees of the Reading, the Northern Pacific, and the Great Northern voiced strenuous objection to the proposed consolidations involving the roads by which they were employed, at the hearings on Senate Joint Resolution 161, because of injuries which they anticipated from such consolidations.

MR. WALKER D. HINES, testifying in behalf of stockholders of the Northern Pacific and Great Northern Railways favoring unification of those systems, testified in that connection as follows (hearings, S. J. Res. 161, p. 390):

#### ECONOMIES TOO GRADUAL TO INJURIOUSLY AFFECT EMPLOYEES

"I want to come now to the labor question: Statements of some persons who have appeared before this committee have had, I think the effect of creating the impression that in this Northern Pacific-Great Northern case the representatives of the Northern lines have ignored the interests of labor and have contemplated going ahead in a manner seriously injurious and even ruinous to labor. The facts are altogether otherwise. In the hearings in the case before the Interstate Commerce Commission the president of the Northern Pacific and the operating vice president of the Great Northern, testified to the effect that a period of several years would be required to put into effect the economies which are contemplated—and which it was believed would aggregate more than ten millions of dollars per year when all of them were finally put into effect; and they further testified that on account of the gradual way in which the economies would be put into effect the opportunity would arise and would be availed of to bring about such reduction in labor forces as might come through the economies, simply by omitting to fill vacancies which would be caused by employees leaving the service for natural reasons, and that there would be no general or wholesale discharge of employees.

"So that the plan from the outset as contemplated has been a very considerate treatment of the employees, and which would prevent the consequences which I think were pointed out by various representatives of labor interests before this committee."

\* \* \* \* \*

The chairman having asked Mr. Hines whether he would object to the commission laying down as a condition of the consolidation in question that there should be no reduction of staff, after some colloquy, the witness replied (p. 403):

"As I have already indicated, the executives of the railroads have outlined what they purposed doing, and I can not imagine their objecting to that being provided. What they have outlined I think is a considerate and reasonable way to do this, to let the turnover take care of it; and I think their having said that they would stand by it.

"Senator HAWES. You would be willing to do it?

"Mr. HINES. I can not see what basis we would have of objecting to it. But I want to emphasize that the reason the matter has not been so far dealt with more specifically is that

labor has not come before the commission. The way being available for labor to come before the commission, and the commission being able to fully protect the interests of labor under the present law, it would seem to me that there is expressed here a very unnecessary alarm, and certainly a great exaggeration in the statements made here before your committee the other day.

"Senator BARKLEY. If I understand you, General Hines, your position is that the Interstate Commerce Commission has the right and the power now to make as a condition to this consolidation the carrying out of the gradual elimination of employees by means of a natural turnover, and that if the commission emphasizes that condition, the railroads will of course comply with it and would make no serious objection to it.

"Mr. HINES. They would either have to comply with it or forego unification."

It is very apparent that the matter of the protection of the interests of labor is a major element of the consolidation problem. Further, it is at least very doubtful whether the commission has under the present statute any authority to impose conditions as to the protection of labor in orders approving consolidations or unifications.

#### OPINIONS OF STUDENTS OF CONSOLIDATION NOT IN RECORDS OF HEARINGS

Aside from the matters presented at the hearings in Congress, the consolidation problem has been discussed in magazine and newspaper articles, and studies made by students of railroad problems. All these are not available, and many would be mere repetitions of what has already been set out. A few, however, seem worthy of presentation.

Prof. I. LEO SHARFMAN, department of economics, University of Michigan:

The following statements by I. Leo Sharfman, professor of economics, University of Michigan, in his book *The American Railroad Problem* published in 1921, immediately after the passage of the transportation act, are very striking as prophesies of the actual working out of the law. Professor Sharfman's opinion, based upon the same reasons stated by Senator Cummins and others for the passage of the act, is stated as follows:

#### ADVANTAGES OF UNIFICATION

"A policy of unification seems imperative, therefore, if the best interests of the public are to be served. Fuller utilization of plant and facilities, greater uniformity in financial returns, better credit, more stable securities, less likelihood of resort to discrimination, improved labor conditions, and lower rates—in short, a more adequate transportation service—may well be expected to result from the relinquishment of our historical reliance upon competitive operation, in favor of a policy of unification" (p. 235).

#### POSSIBILITIES OF DANGER IN CONSOLIDATIONS

Discussing the principles which should govern a policy of unification, and noting that the repeal and modification of antitrust statutes is essential to a change of policy, he says:

"Taken by itself, however, such a program would certainly be inadequate and would probably prove dangerous. While progressive consolidation into a much smaller number of great transportation systems would doubtless result, the primary motives underlying this process would be those of private profit rather than of public advantage. \* \* \* Merger per se is not necessarily desirable. If its dominant purpose is not to secure greater operating efficiency or increased financial economy, or a more equitable adjustment between private rights and public interest, but the mere formation of irresistible competing units, capable of destroying such carriers as remain outside of the controlling systems, the tendency to consolidation may well be regarded as fraught with dangerous possibilities" (p. 236).

#### VOLUNTARY SYSTEM INSUFFICIENT

Further, discussing voluntary consolidations even under regulation by the commission, and with permission to be granted only by the commission where consolidations are in the public interest—in other words, the policy of consolidation now being urged—he says:

"This solution is safe; it is negatively correct. But it can not be reasonably expected to eliminate the strong and weak road problem, and it is not likely to result in such a degree of unification as would secure full utilization of railroad plant equipment. Consolidation would still remain voluntary. The extent to which unity of operation is secured would be dependent upon the initiative of the carriers. Too much would still rest, therefore, on the motive of corporate advantage in the arrangement of the new systems. In some degree, without doubt, the stronger roads would voluntarily absorb the weaker lines; for a line that is weak when standing alone may prove to be a valuable connection or feeder for a larger system. But in most instances, powerful companies would naturally refuse to include in their mergers lines whose routes are circuitous, whose physical condition is poor, whose credit is weak, and whose contribution to the contemplated system is of no strategic value. These voluntary consolidations would be directed primarily to the creation of more profitable operating arrangements; the process of unification would be neither sufficiently complete nor sufficiently systematic to assure the desirable improvement in the transportation service. \* \* \* We are forced to the conclusion, therefore, that compulsory consolidation is essential to the orderly achievement of operating unity" (pp. 237-238).

Prof. WILLIAM Z. RIPLEY, Harvard University:

Prof. William Z. Ripley, of Harvard University, who prepared the tentative plan of consolidation, at the request of the Interstate Commerce Commission, which has been reviewed in this study, in an article appearing in the October, 1930, number of *World's Work*,



entitled "Railroad Consolidation: What of it?" presents his views of the consolidation problem in the light of present-day conditions.

In the first place, he states that while 10 years have elapsed since the passage of the transportation act of 1920, which was to be a panacea for all railroad ills, nothing of importance has come from the act. As he states it, after a brief discussion of the general situation:

"Is it any wonder that railroad consolidation has looked deader than a doornail save for the forward press of a little knot of far-sighted men who live not for the moment, but who contemplate the years to come?"

#### CONSOLIDATION NECESSARY TO LIFE OF RAILROADS

He enumerates some of the active and potential competitors for the business now being done by the railroads, such as airways, highways, waterways, pipe lines and electric power lines, with figures as to the amount of business being taken and likely to be taken from the railroads by these competitors.

"It is quite simple to demonstrate the soundness and inevitability of consolidation in trunk-line territory in order that the railroads may not only stand firmly upon their feet, but also that they may be enabled to run."

#### SUGGESTED IMPROVEMENTS OF EASTERN ROADS

He then calls attention to the routes of the leading competitive roads in trunk-line territory between New York and Chicago: The New York Central swinging almost 150 miles north before it turns west at Albany; the Baltimore & Ohio dipping down to Washington before it heads toward Chicago; the Pennsylvania slanting southwest to Philadelphia before it goes toward the mountains, and the Erie swerving up and down with bad grades and avoiding the good-sized cities.

He then discusses the proposals of the various roads to straighten their routes by acquisition of existing lines, as for instance, the proposal of the Baltimore & Ohio to use the Buffalo, Rochester & Pittsburgh from Butler, Pa., to Du Bois, then following the Buffalo & Susquehanna, then taking trackage or paralleling a few miles of line of the Pennsylvania to Williamsport and thence over the Reading and Central of New Jersey lines into New York, shortening the line from Chicago to New York more than 80 miles and saving 900 feet in elevation at the high point.

"Nor is all of this on paper. Virtual approval governmentally has already been obtained. Its completion will be an achievement of primary importance to the Nation and at the same time a tribute to Daniel Willard, one of the fairest, ablest, and most farseeing railroad presidents of our time."

He next discusses the proposed remedy of the difficulties of the Erie by a combination with the Nickel Plate, thus eliminating the saw-toothed course of the Erie between Chicago and Buffalo, and at the same time giving the Nickel Plate an outlet into New York.

He then suggests as a proposition for shortening the mileage of the New York Central that it be given trackage rights over the new Baltimore & Ohio short line, in consideration of the New York Central giving up its 50 per cent interest in the Reading.

#### GREAT NORTHERN-NORTHERN PACIFIC MERGER

He next discusses the proposed Great Northern-Northern Pacific consolidation and says:

"Why then is not this true: That there will still be the effect of competition, as required by law, even if these two work in yoke together, so long as the Milwaukee is fully able to hold its own against the team? It isn't the number of competitors which counts; it is that rivalry should be even-handed, not lopsided or ineffective. Suppose the two lake-to-coast systems act as one and be continued on into Chicago? Wouldn't competition with the Milwaukee be far more even-handed than to have one of them breached part way?"

"The real question in this instance—and it is equally true of every public utility's case—is not, however, one of economy and efficiency, in and of itself. Of course, the public has a right to service. That goes without saying. But we really have to do, rather, with the fruits of such fit performance. If enhanced economy only means larger returns to private stockholders, or if such profits, on the other hand, are to yield only better service and no greater reward to the capital employed, the arrangement will break down of its own weight, in the long run. For in the one case, the public will end it through public ownership; in the other, efficiency will dry up through capital anemia. The sure way out—and it is equally applicable to all these cases above cited—is to encourage all possible economy and efficiency, no matter if it does engender monopoly; but to keep the whip hand of control for the ultimate disposition of the proceeds; and then see to it that a 50-50 divvy-up obtains. Greater efficiency, both lower rates or greater service, on the one hand, and more ample returns to the owners—dividends or reserves and the like—on the other."

He then discusses certain proposed consolidations, which he deems uneconomic, such as the application of the Southern Pacific to own and control the St. Louis Southwestern, which would result in a long routing over the Cotton Belt from the Southern Pacific instead of the use of the present direct connection with the Rock Island.

#### CONSOLIDATION WILL MAKE FOR MASS PRODUCTION OF TRANSPORTATION

Closing by referring to the great progress in railroad management and operation, and the probable increasing use of electrification, he says:

"But mass production of transportation, which electrification attempts, as everything else, calls for volume and standardization; and that is exactly what consolidation, if properly effected, may bring about."

"Thus one reaches the final conclusion, that this issue, far from being dead, deserves to be kept at the forefront of railroad affairs. I have never lost faith, throughout 30 years of close association with the business, in the future of American railroading, both in the common service of the people and as a prime repository for the capital savings of the nation, and one may rest assured that the carriers will turn out to be masters of



their fate through the next few years, just as they have overcome so superbly all the disabilities which came as an unwelcome heritage of the Great War.

"But it is in the interest of the people, nevertheless, that these carriers be granted an ample return upon the investment—always with the understanding that the funds shall be wisely invested and efficiently handled, and that the return shall be within reason and fair to all parties concerned."

Hon. JOHN W. McCARDLE, chairman Indiana Public Service Commission.

In an article published in the Indianapolis Sunday Star of January 19, 1930, Hon. John W. McCardle, chairman of the Indiana Public Service Commission, presents his views as to the proposed consolidation plan of the Interstate Commerce Commission. After reciting the situation of the railroads at the end of Federal control, and the theory of the framers of the consolidation provisions of the law, and their belief that a reversal of the national policy as to consolidation was necessary to insure an improved system of transportation for the country; and after calling attention to the fact that during the 10 years since the passage of the transportation act the railroads have returned to a normal condition, and have been able to procure at a reasonable cost the necessary funds to expand, and that to-day we have the most efficient transportation machine we have ever had in the history of the country, he says:

#### NO GAIN TO PUBLIC FROM CONSOLIDATIONS

"Just what is to be gained by the consolidation of the railroads of the country into a few large systems? The public is interested in railroad operation mainly from two standpoints: The adequacy of transportation and the amount which it pays for railroad service.

"No one will contend that the transportation system of the country to-day is not adequate for the present needs of business, and not strong enough to grow with the requirements of increased business.

"As far as I have been able to discover, in no case where the subject of consolidation has been considered by the Interstate Commerce Commission has there been any claim that the users of railroad service may expect lower rates. While it is true in some of the hearings, it has been pointed out that as a result of consolidations economies might be effected, yet anyone with business experience knows that as the size of a business unit is increased, the supervision of the responsible officers becomes more and more remote from the employee and from the customer who desires action. \* \* \* Supervision is weakened to the extent that any saving in operation, through consolidation, is more than offset by the increased cost of doing business due to remote supervision. \* \* \* I believe that smaller units not only provide greater efficiency but also more satisfactory service to the patron. \* \* \*

"There is nothing for the public to gain by the consolidation of the railroads, except improved service or lower rates, and as

neither of these may be expected, there seems to be no reason from the standpoint of the public why consolidations should occur.

#### LOSSES TO PUBLIC

"What has the public to lose by consolidations? In my judgment, the individual States have a great deal to lose by consolidating the railroads into a few large systems. Aside from the loss of value of close contact with high officers, which is now enjoyed in the case of many railroads of the country, I think the individual States have to lose the following: (1) The diversion of business and tax income; (2) through consolidation of repair plants and operating units, reduced pay rolls, which contribute to the welfare of the State; (3) through the concentration of purchase of materials and supplies.

\* \* \* "Indiana has already suffered a very large loss in pay rolls and consumption of materials as a result of the consolidation of units of some of the railroads within its borders. \* \* \*

#### TWO FORCES URGING CONSOLIDATION

"At the moment there seem to be two main forces urging the consolidation of railroads. One is important railroad systems, that seek to eliminate strong and troublesome competitors, by securing control. Another is short-line railroads, which hope, and unfortunately are, succeeding in disposing of their properties to large systems at prices not justified by any record of earnings.

#### SHIPPERS WILL LOSE ADVANTAGES OF COMPETITIVE ROUTES

\* \* \* Through railroad consolidation, the shippers will lose the advantage of the many available routes for moving traffic which they now possess. Under present conditions a shipper can route his traffic over as many different routes as can reasonably be made by the various combinations of the railroad tracks between point of origin and destination. \* \* \* With the railroads consolidated into a few large systems it is apparent that fewer routes will be available. \* \* \* For example, take a shipper whose plant is located on only one railroad. If this originating railroad becomes a part of a large system, thereby reaching many destinations, the shipper will be required to route his traffic over the one railroad system to the destinations reached by it, unless to do so would create an unreasonably long route. While the law providing for the consolidation of the railroads provides that competition shall be preserved as fully as possible, and wherever practicable, it is apparent that by doing away with existing and available routes, competition will be absolutely destroyed for a large volume of business."

HERMAN W. ORDEMAN, consulting engineer:

In a publication entitled "The Consolidation Equation," published in 1930 by the Traffic Publishing Co., appears an analysis of the railroad consolidation problem by Herman W. Ordeman, consulting engineer.

This is of particular interest because the discussion is brought down to and includes the introduction of Senate Joint Resolution 161, and the opinions of the various commissioners on the consolidation plan are set forth in full, together with a list of acquisitions of control and a copy of S. 668.

#### CONSOLIDATIONS EXCEPT UNDER ANTITRUST LAWS SHOULD NOT BE PERMITTED

This author comes to the final conclusion "that large consolidations of our railroads, except under the conditions of the Sherman Antitrust Act, should not be consummated."

"Consolidations, as enacted in law by the people's representatives, have been going on for 10 years. Many of the consolidations that have taken place have certainly reduced competition. At the same time, however, the public, through freight rates, passenger fares, or service, has received few, if any, benefits. Whatever benefits have accrued would have probably accrued anyway under individual control and management.

"Consistent effort on behalf of the public and for the public interest, can not cope with the extensive work of transportation specialists through direct affiliations that are seeking mergers and consolidations; through direct ownership, leases, holding companies, and even investment trusts" (p. 6).

#### WEAK LINES

Discussing weak lines he calls attention to the fact that no Government agency can regulate supply and demand, and that roads have alternately been strong, then weak, and then strong again. Further, that many weak lines should never have been constructed; that it is unfair to saddle upon the public the uneconomic conditions resulting from the construction of such roads. He states that in the case of the New England roads, protection was secured by proper divisions. He also calls attention to the fact that in many cases roads were constructed for the purpose of handling natural products which have become exhausted, and by reason of their exhaustion, the roads have become weak. He also calls attention to the situation in Florida, when because of the artificial condition, roads were strong as soon as built, but with the change of conditions they have become weak.

"The saddling of weak lines on the strong lines tends to make the strong line weak. It results in a dole system. This ultimately can result in only one thing—Government ownership and operation.

"If the purposes and the motives of those who framed the consolidation provision of the transportation act were an endeavor to protect the weak carriers against economic conditions (which can not be regulated), it is proper to ask, then:

"Why should the Baltimore & Ohio be permitted to take over the Reading?

"Why should the Wabash be permitted to absorb the Lehigh Valley?

"Why should the Erie Railroad be permitted to absorb the Lackawanna?

"Why should the Great Northern be permitted to take the Northern Pacific?

"Why should the Southern Pacific be permitted to absorb the El Paso & Southwestern, etc.

"Such consolidations will not reduce mortality.

"It may be that the excuse of trying to protect the weak lines has been based on the code of financial procedure with respect to commercial business, consolidations and mergers, whereby strong railroads are absorbed by strong railroads, and also strong railroads are absorbed by weak railroads, through the actions of a few. This certainly is not to the public interest. The aftermath results in antitrust legislation; when in this case it does come it will be far more severe than we have witnessed in the past and with greater mortality."

#### CONDITION OF RAILROADS 1916-1928

Then follow certain summaries of the general conditions of the railroads of the United States for three periods: 1916-1919, 1920-1923, and 1924-1928.

He shows that receiverships, which for the first period averaged 21,994, with an average of 75 roads in charge of receivers, has diminished to an average for the third period of 13,286.24 and only 46 roads, and with only 33 roads with an aggregate mileage of 5,255.54, in the hands of receivers at the close of 1928.

The operating ratio of expenses to revenues with an average for the first period of 75.78 has decreased to an average for the third period of 73.67, with the average ratio for 1929 only 71.69.

Car shortages which averaged for the first period, 78,221 cars, have decreased to an average for the third period of 42 cars, with no car shortages on December 31, 1928, or December 31, 1929.

In this connection, he says:

"In giving 100 per cent car supply to those that must have it, namely, the shippers, consolidation has played no part in affording the public equipment to move goods. This furnishing of equipment has been accomplished by the carriers operating individually. \* \* \*

"The revenue per ton-mile has increased only 42 per cent from 1916 to and including 1929, while operating expenses have increased about 85 per cent, and tax accruals have increased over 130 per cent.

"The comparison of revenue increases as against the major expense items shows conclusively that the carriers in recent years have performed their duty well, the result having been a benefit both to the public and to the security owners."

Where in 1920 freight cars moved an average of 25.1 miles per day, in 1921 this had increased to 32.4 miles per day, meaning a quickening in the movement of freight to the extent of 29 per cent.

He says that the average tractive power per locomotive, average capacity per freight car, and freight train car-miles per locomotive mile have all increased, with a resultant lower operating cost.

There has been a decrease in passenger revenue per car-mile.

He states that without a limited number of systems the public is receiving the benefit of rate reduction, and that according to the statements of railroad executives it is doubtful whether consolidation will result in lowering rate charges.

#### EFFECT OF CONSOLIDATION ON THROUGH ROUTES

"The present law gives to the public the right to choose the route of their shipments. If consolidation takes place between carriers, it is self-apparent that the originating line will have little consideration for a carrier that is a competitor or semi-competitor, where the originating line will be short hauled, regardless of the fact that short hauling will be of service benefit to the public."

#### EFFECT ON SECURITY OWNERS

As a further objection to consolidation he discusses the effect upon the owners of securities, maintaining that if strong roads are compelled to take over weak roads, the stockholders of the strong roads will suffer.

"The agencies of the people in the form of a Federal body certainly have no right to deprive the owners of returns, or to provide a situation that would create a lessening of their rights now existing in the stock and bonds of a good going concern. A continuation of apparently weak lines that can not exist in and of themselves, or can not exist with a larger line and carry their load, amounts to a destruction of the stronger system; it will make the stronger system ultimately a weak system at a loss to the owners."

#### COMPETITION

He discusses at length the proposed Great Northern-Northern Pacific consolidation, and the effect upon competition of that proposed consolidation.

After discussing the antitrust act and discussing at some length holding corporations and their freedom from control by the commission, he says:

"The Sherman Antitrust Act does not restrict legitimate transportation lines which are not in competition with one another from consolidating or merging their interests, but the act does not allow any merger to the detriment of the public."

After a discussion of S. 668 concerning which he says:

"This proposed legislation not only continues the monopolistic features of the transportation act, but it makes more binding upon the shipper and the traveler railroad consolidation that was never intended by the framers of the transportation act."

#### CONCLUSIONS

He reaches the following ultimate conclusions (pp. 42, 43):

"1. Consolidation of the railroads is predicated upon Government ownership.

"2. Federal control is repugnant to the public.

"3. Owing to the individual initiative of the American citizen in business, the period of Federal control was followed by the reconstruction period, and to-day the carriers of the United States are performing in a manner satisfactory to the public.

"4. But the public has been required to accept, since 1920, railroad consolidation that embraces approximately 21 per cent of the total railroad mileage.

"5. Legislation even now before Congress would permit a licensed monopolistic system of transportation.

"6. The governmental agency in the form of the Interstate Commerce Commission has on numerous occasions asked to be relieved of the responsibility of drawing up a consolidation plan.

"7. Consolidation of railroads is not a remedy for the elimination of weak lines.

"8. The economic law of demand and supply is inexorable. It will keep on working in the future, as it always has worked in the past. If the normal interaction of demand and supply is interfered with—as in the case of consolidations, holding corporations, etc.—disaster is sure to be visited upon the public.

"9. Holding companies must be curbed in order to save not only the transportation systems, but also the industrial units of our country.

"10. The Sherman Antitrust Act and Clayton Act are still laws for the protection of the public as a whole, and their efficacy must be maintained.

"Therefore we may justifiably assume that large consolidations are not conducive to the public's best interests. If permitted, they will produce a chaotic condition. The solution of the whole vital problem rests with those who are elected by the people to protect their interests. However, there is also an obligation to be borne by the public of studying railroad consolidation and expressing an opinion to their Representatives in Congress."

#### ASSOCIATION OF RAILWAY EXECUTIVES:

Attached is "A Declaration of Policy" of the Association of Railway Executives, adopted November 20, 1930. Although this largely contains matters not strictly germane to the consolidation problem it is presented in full as setting forth the latest expression of the views of railroad executives as to the present condition of the railways of the country, and also because to some extent it presents views contrary to those expressed by Mr. Ordemann.

#### DECLARATION OF POLICY DEEMED NECESSARY TO THE CONTINUANCE OF ADEQUATE TRANSPORTATION SERVICE TO THE PUBLIC

At a joint meeting of the executive committee and member roads of the Association of Railway Executives, held in New York November 20, 1930, a report of the advisory committee was received in the form of a resolution reading as follows:

"Resolved, That the advisory committee recommends to the joint meeting of the executive committee and member roads the adoption of the program set forth in the attached report, with the qualification



that it is not to interfere with the position taken in respect to the bill now pending for regulation of bus lines."

This report was unanimously approved and adopted by the executive committee and member roads as a declaration of their policy.

It is as follows:

Without referring to or including in any way the results of the business depression of 1930, and basing the statement entirely on the period ended with December 31, 1929, the following picture presents itself:

*Growth in railway traffic*

	Revenue ton-miles increased	Passenger miles in- creased
From 1890 to 1900.....	Per cent 85.8	Per cent 35.4
From 1900 to 1910.....	80.1	101.6
From 1910 to 1920.....	62.2	46.5
From 1920 to 1929.....	8.8	134.2

<sup>1</sup> Decrease.

What are the causes leading to this extreme decline in railway traffic in the past nine years?

*1. Motor vehicles, coupled with improved highways (motor vehicle registrations)*

Year	Passenger cars (in- cluding motor busses)	Motor trucks	Total motor vehicles	Year	Passenger cars (in- cluding motor busses)	Motor trucks	Total motor vehicles
1920.....	8,225,859	1,006,082	9,231,941	1926.....	19,237,171	2,764,222	22,001,393
1921.....	9,346,195	1,118,520	10,464,715	1927.....	20,219,224	2,914,019	23,133,243
1922.....	10,864,128	1,375,725	12,239,853	1928.....	21,379,125	3,113,990	24,493,124
1923.....	13,479,608	1,612,569	15,092,177	1929.....	23,121,589	3,379,854	26,501,443
1924.....	15,460,649	2,134,724	17,595,373	Per cent increase, 1929 over 1920....	181.1	235.9	187.1
1925.....	17,512,638	2,441,709	19,954,347				

*APPROXIMATE NUMBER OF BUSES*

1920.....	10,000
1929.....	92,500
Per cent increase 1929 over 1920.....	825

*2. Transcontinental tonnage handled through the Panama Canal*

Fiscal year:	Intercoastal tons of cargo
1921.....	1,372,388
1922.....	2,562,527
1923.....	8,068,553
1924.....	13,527,378
1925.....	9,496,259
1926.....	10,069,604
1927.....	10,560,505
1928.....	10,067,392
1929.....	10,119,028
Per cent increase 1929 over 1921.....	637.3

*3. Traffic handled over the inland waterways, excluding the Great Lakes*

	Tons
1920.....	83,150,182
1921.....	79,901,753
1922.....	77,872,724
1923.....	108,026,159
1924.....	121,713,097
1925.....	136,372,752
1926.....	146,907,027
1927.....	154,575,002
1928.....	160,927,905
Per cent increase 1928 over 1920.....	93.5

4. Contributing factors to this decline in rail traffic are the pipe lines, high-power electric lines, and the newest development of the piping of natural gas from the wells to large centers, which is going to reduce still further the coal traffic.

In so far as any form of the above service is legitimate and a natural economic development, the railroads have no right to complain. The public is entitled to the best transportation at the lowest reasonable cost. However, where the rail carriers are prevented through legislation or regulation from fairly competing with new or old forms of transportation, or where the service rendered by the competitor is a subsidized one, such unfair handicaps should be removed.

It is suggested—

(A) That the present lack of adequate regulation of motor-bus and truck operation should be remedied by the enactment of appropriate legislation, with no discriminatory provision against the railroads operating in the same field.

(B) That the restrictions on the railroads from competing with the Panama Canal by refusal to grant them fourth-section relief be removed.

(C) That the Government of the United States discontinue competing with the railroads or any other form of transportation either directly or by subsidy.

(D) That pipe-line common carriers be subjected to the same restrictions, in respect to the transportation of commodities in which they are interested, directly or indirectly, as the railroads now are.

The above refers to loss of traffic through competitive reasons.

Traffic that remains has produced the following results:

*1. The average receipts per ton-mile have been as follows:*

	Average receipts per ton-mile (cents)	Reduction in freight revenue due to declining average re- ceipts per ton-mile, compared with 1921		Average receipts per ton-mile (cents)	Reduction in freight revenue due to declining average re- ceipts per ton-mile, compared with 1921
1921.....	1.275		1927.....	1.080	836,037,000
1922.....	1.177	832,500,000	1928.....	1.081	839,855,000
1923.....	1.116	656,236,000	1929.....	1.076	890,170,000
1924.....	1.116	617,530,000	Per cent of decline 1929 un- der 1921.....		15.6
1925.....	1.097	736,589,900	Total reduction in revenue		5,769,835,000
1926.....	1.081	800,868,000			

Figures for average receipts per ton-mile, it is fair to say, represent many factors, such as changes in commodities, distances hauled and other items, and can not be taken as a precise guide to rate reductions; but they are conclusive as showing the trend.

2. During this same period the operating expenses have indicated the application of great economy and efficiency, as shown by the following figures:

*Operating expenses and traffic units,<sup>1</sup> Class I Steam Roads, United States*

	Total operating expenses	Traffic units	Expenses per 1,000 traffic units
1920.....	\$5,827,591,146	550,852,000,000	\$10.58
1921.....	4,562,668,302	418,778,000,000	10.90
1922.....	4,414,522,334	445,095,000,000	9.90
1923.....	4,595,166,819	526,597,000,000	9.30
1924.....	4,507,885,037	496,688,000,000	9.08
1925.....	4,536,880,291	521,665,000,000	8.70
1926.....	4,609,336,736	550,179,000,000	8.49
1927.....	4,574,177,821	529,686,000,000	8.64
1928.....	4,427,995,036	527,719,000,000	8.39
1929.....	4,506,056,262	540,544,000,000	8.34
Decrease 1929 under 1920:			
Amount.....	1,321,534,884	10,308,000,000	2.24
Per cent.....	22.7	1.9	21.2

<sup>1</sup> Revenue ton-miles plus equated revenue passenger-miles.

This has been accomplished largely through the expenditure for capital improvements in the 9-year period amounting to \$6,855,416,000, which provided improved locomotives and equipment, improvement in the physical structure, improvement in methods, and done in conformity with the program of the railroads entered into in 1923, which, as announced at that time, was based "on an abiding faith in the fairness of the American people and reliance on the continuance of the policy announced in the transportation act, 1920, as a measure of reasonable protection to investment in railroad property."

During this same period the decline in the average receipts per ton-mile has shown an accumulative amount closely approximating what has been spent for capital expenditure—\$5,769,835,000.

3. Notwithstanding this economy and efficiency, rates have never produced the return on property investment contemplated in the transportation act, viz, 5½ per cent, for the railroads as a whole.

*Rate of return on property investment, Class I steam roads, United States*

	Rate <sup>1</sup>
1921.....	2.87
1922.....	3.59
1923.....	4.33
1924.....	4.23
1925.....	4.74
1926.....	4.99
1927.....	4.30
1928.....	4.65
1929.....	4.84
8 months ended Aug. 31, 1929.....	5.48
8 months ended Aug. 31, 1930.....	3.59

<sup>1</sup> Rate based on property investment of carriers as shown by their books, including material and supplies and cash.

#### WHAT ARE THE REASONS?

Reductions in rates, beginning with the year 1921, have continued up to the present moment. These reductions were brought about—

First. By action of the Interstate Commerce Commission.

Second. Through reductions made voluntarily by the carriers to meet competition including that of unregulated or subsidized transportation.

Third. Through reductions made voluntarily by the carriers for the development of industrial enterprise and communities.

This is the situation in which the railroads of the country find themselves to-day.

What the railroads are asking is a new spirit and attitude on the part of legislative and regulative authorities—

(a) Through a recognition that the railroads are engaged in a business subject as other business is to the operation of economic laws and should accordingly be permitted to adapt themselves quickly to changes in economic conditions which confront them, and

(b) Through a recognition that railroad operation is a fundamental public necessity and that the maintaining at all times of an efficient national system of transportation, adequate to the business needs of the public, is necessary, if we are to progress as a nation.

The railroads at this time make the following recommendations:

First. A respite from rate reductions and suspensions by regulating bodies, both intra and interstate, and from action that will increase the expenses of the carriers.

Second. A respite from legislative efforts of either the national or the State legislatures that would adversely affect rates or increase the expenses of the carriers.

Third. A withdrawal of governmental competition both through direct operation of transportation facilities, as well as indirectly through subsidies.

Fourth. A fairly comparable system of regulation for competing transportation service by water and on the highways, involving affirmative legislative action as follows:

As regards water transportation, legislation should cover—

A. Extending jurisdiction of the Interstate Commerce Commission over port to port rates, to include—

B. Determination of just and reasonable rates, and prohibition of discriminatory and unduly prejudicial rates.

C. Publication of and adherence to rate schedules.

D. Proper service requirements.

E. Certificates of public convenience and necessity after proper showing.

F. An opportunity for the railroads to enter this field of transportation under proper supervision, but without handicap as compared with other transportation agencies. The Panama Canal act should be modified so as to permit railroad operation of waterway service in conjunction with rail service.

G. And, in addition to affirmative legislative action, the retention of the flexible character of section 4, interstate commerce act, sympathetically administered, with fair opportunity on the part of rail carriers to obtain relief after proper showing and including transcontinental traffic.

As regards commercial highway transportation, by bus or truck, legislation should cover—

A. Extending jurisdiction of the regulatory authorities over commerce carried by such agencies.

B. Certificates of public convenience and necessity, after proper showing.

C. Proper protective requirements for financial responsibility and surety bonds or insurance.

D. Adequate requirements for just and reasonable rates, both maximum and minimum, with provision for publication thereof and adherence thereto, and proper inhibition against undue and unjust discrimination.

E. Proper service requirements.

F. Adequate authority for rail carriers to operate such facilities, without discrimination in favor of other transportation agencies in the same field.

G. Adequate provision for privilege or license fee imposed on all motor vehicles for hire or profit using highways, so as to properly participate in construction and maintenance costs of highways.

As regards pipe-line transportation—

That pipe-line common carriers be subjected to the same restrictions as to the transportation of commodities in which they are interested, directly or indirectly, as the railroads now are.

All basic figures given in this statement are derived from the reports of the Interstate Commerce Commission or from other governmental sources and are open for inspection and verification.

For the policies recommended herein by the Association of Railway Executives they bespeak the earnest and thoughtful consideration of the public, from the standpoint of the national interest in maintaining in the highest degree adequate and efficient transportation in every modern form, with equal opportunity for all.

Dr. HOWARD C. KIDD, professor commerce and transportation, University of Pittsburgh:

Reference has been made in the discussion of the long-haul provisions of the transportation act to a report of Doctor Kidd. The Public Service Commission of the State of Pennsylvania selected Doctor Kidd, a leading economist and author, who spent the year 1928 in Great Britain making a study of the consolidation of British railroads, to make an investigation of consolidation proposals as they affect the State of Pennsylvania. Doctor Kidd very recently completed his report, and a copy has been furnished this committee. It is most exhaustive, reviewing generally Federal legislation as to consolidations, setting forth a very complete analysis of the proposed Reading and Baltimore & Ohio merger and discussing each of the other principal roads of Pennsylvania which might be affected by the mergers and consolidations proposed in the plan of the commission. The report fills a booklet of 158 printed pages and can not be presented in full here. A reading of it is most instructive because it deals in detail with one of the most important proposed consolidations which is a matter of controversy, and in dealing with that proposed consolidation analyzes situations which exist in several other cases.

While it is not practicable to present even a digest of Doctor Kidd's report, certain of his conclusions will be presented and references made to the complete report for a detailed analysis.

#### COMPLETE PLAN OF COMMISSION AN ANOMALY

Discussing the commission's complete plan and the attitude of the commission and individual members, he says:

"By its protests and its delay in bringing out the complete plan the commission virtually said to Congress: We do not believe in the wisdom of your policy of consolidating the railroads according to a plan that must necessarily be artificial. Since, however, we have washed our hands of the responsibility we shall proceed to obey orders.

"The complete plan thus presents an amazing anomaly. It was created by a commission which has little faith in it as a pattern for railroad grouping, and it must be considered as a factor in consolidation by this same commission."

#### IMPROVEMENT IN CONDITION OF RAILROADS SINCE 1920

Discussing the trend of railroad developments since the war he says:

"When Congress passed the transportation act of 1920 providing for the consolidation of railroads, it was prescribing for a very sick patient. The railroads at the conclusion of the war were in a state of collapse. They had all the symptoms of a serious illness—the wasting effects of inefficiency and the weakened pulse of credit. The clinical fever chart, the net earnings of the railroads, showed a tendency that apparently warranted heroic measures. Using 1910 as a base of 100, the net earnings declined from 118 in 1916 to 80 at the beginning of 1920, and to 59 at the end of that year.

"In such an atmosphere of disorder the prescription of consolidation was indorsed by Congress as a remedy for the plight of the railroads.

"Before the remedy could be administered, however, the patient got well, took up his bed, and walked. Using the same comparison of net earnings which we have just mentioned, we find the unmistakable indications of recovery:<sup>1</sup>

	Index of earnings
1910.....	100
1921.....	59
1923.....	110
1926.....	151
1928.....	149

<sup>1</sup> Based on annual reports of the Interstate Commerce Commission.



## IMPROVEMENT RESULT OF LIBERAL CAPITAL EXPENDITURES AND RIGID ECONOMY

"These results have been obtained by a combination of liberal capital expenditures with rigid economy in operating budgets.

"In the years 1923-1929 the capital expenditures of Class I railroads were as follows:<sup>2</sup>

	Capital expenditures
1923.....	\$1,059,149,000
1924.....	874,744,000
1925.....	748,191,000
1926.....	885,086,000
1927.....	771,552,000
1928.....	676,665,000
1929.....	853,721,000
Total.....	5,869,108,000

"While capital outlays were mounting, the skill of railroad managers was exerted to reduce costs and increase operating efficiency. Based on 13 factors, the efficiency averages of Class I railroads were as follows:<sup>3</sup>

	Efficiency average
1922.....	96.5
1923.....	103.4
1924.....	104.8
1925.....	109.4
1926.....	113.5
1927.....	115.2
1928.....	118.0
1929.....	121.1

"Many other evidences of the vitality of the American railroad position to-day can be found in the statistics of operation and in the indices of efficient service to the shippers. It lies beyond the scope of this study, however, to enter into a discussion of the ways and means by which railroad recovery since the war has been brought about. It is sufficient here to observe the conclusions reached by Mr. Herbert Hoover, as Secretary of Commerce, in 1926:<sup>4</sup>

"Probably the most outstanding single industrial accomplishment since the war has been the reorganization of our American railways. Our transportation service was not only demoralized by Government operation during the war, but had suffered chronic car shortages and insufficient service, not only after the war, but for many years before. The annual loss from this periodic strangulation in transportation was estimated in the department's annual report of 1925 to amount to hundreds of millions a year. The insufficiency of transportation interfered with steady industrial operations, created intermittent employment, increased the cost of production, and, through periodic strangulation, caused high prices to the consumer. Manufacturers and distributors were compelled to carry excessive inventories as a protective measure, thus not only increasing the

<sup>2</sup> Bureau of Railway Economics, Misc. Series 51, p. 18.

<sup>3</sup> Bureau of Railway Economics, Misc. Series 51, p. 21.

<sup>4</sup> Annual Report (1926).

amount of capital required in the business but multiplying the danger of loss by price fluctuation.

"The railways, during the past five years, not only have built up adequate service and given complete correction to those ills, but they have, by great ability of their managers, greatly reduced transportation costs and thus made rate reductions possible which would not have been otherwise the case \* \* \*. The result of this great reorganization upon the whole economic fabric of the country has been far-reaching."

## TESTS OF PUBLIC INTEREST

In the opening of his analysis of the proposed Reading-Baltimore & Ohio consolidation he sets forth four fundamental questions which are raised as tests of the public interest in his study of the railroad consolidations, and these questions are set forth because they apply to all consolidations.

"1. Will service to the shippers and to the public be improved?  
"2. Will the financial position of the railroads be strengthened?

"3. Will the future economic development of the State be promoted?

"4. Will costs of transportation be lowered?"

A sketch of his discussion as to open and closed gateways has already been presented.

## ELEMENTS FOR CONSIDERATION

Some of the elements which should enter into a consideration of a proposed consolidation and which are not often discussed at length are presented under the headings, "The Human Element," "A Small Railroad," "An Old Railroad" and "Contact with Shippers."

## THE HUMAN ELEMENT

Under the heading "The Human Element" he says:

"A shipper and a railroad stand to each other as buyer and seller. The commodity traded is transportation service. This commodity, however, can not be standardized. Each shipper's requirements are individual and personal. These requirements include such detailed items as switching facilities, sidings, car supply, specialized equipment, dispatch of movement, tracing of cars, rate adjustments, transit arrangements of all kinds, routing, diversion, reconsignment, safety of shipment—anything and everything that make it possible for the shipper to move his goods efficiently, and to hold his own in competitive markets.

"These items of service which have just been mentioned, however, do not take care of themselves. They result from such ordinary personal contacts as a telephone call, a letter, or a conversation. In adjusting these details shippers naturally like to deal directly with responsible officers of the railroad, with the men who not only know the local problems of shipping, but who also have the authority to make decisions.

"Directly affecting the service that shippers and the public buy from the carriers is the relationship between the railroad executives and their salesmen—the railroad employees. The public is probably inclined to judge the railroads more by the treatment it receives at the hands of conductors, brakemen, yardmasters, and station agents than by the architectural beauty of their municipal terminals. Before a railroad can sell its services to the public it must sell itself to its employees.

"Since the morale of employees is so essential in the railroad's ability to sell its one commodity, service, no carrier can afford to ignore its importance. Being psychological and elusive, morale can be induced but not commanded. It grows by contacts that are not strained. It reaches its highest point on a railroad when the employees know, and have confidence in the executive officers; when the men in the shops, in the yards, and on the trains have a sense of partnership, even with the 'old man,' the president of the road.

"Where the human relationships of a railroad with the people with whom it deals are satisfactory they should not be disturbed unless there are compensating gains unquestionably assured."

#### A SMALL RAILROAD

Under the heading, "A Small Railroad," he discusses the views of Commissioner Eastman and Sir Henry Thornton, president of the Canadian National who, he says, once remarked that "A large railroad is so impersonal that it is like a gigantic machine, 'with no body to kick and no soul to damn.'" Admitting that it would be futile to argue that a small railroad necessarily is successful and that a large railroad is unsuccessful in developing with its clients the contacts that are essential to the best quality of the transportation service:

"We can not contemplate the modern trend in business developments—branch banking, chain stores and trusts—without admitting that railroad consolidation is a phase of the same movement. At the same time we are aware that centralization of control has its price. That the price is too high, in the case of the railroads, is the opinion of many who are in accord with the views of Commissioner Eastman and Sir Henry Thornton."

His discussion with reference to the views of labor and the effect of consolidations upon labor are presented elsewhere in this study under that heading.

#### EFFECTS OF CONSOLIDATION ON FINANCIAL POSITIONS OF ROADS UNCERTAIN

The report contains a concise analysis of the financial position of the Reading Co. and of that of the Baltimore & Ohio, and in this connection makes the following observation.

"Although the present financial position of both the Reading and the Baltimore and Ohio is sound, the wholesale consolidation of railroads would introduce new elements of uncertainty which must be considered.

"Railroad earnings are based primarily on two factors: The volume of traffic, and skill of management. The first determines income; the second affects costs. Who knows in what way the

regrouping proposed by the commission might alter the flow of traffic? Who can tell with what success the new scheme of management would function?

"The proposal to regroup the railroads into comparatively few systems means combining weak with strong lines, redrafting financial plans, shifting the balance of competition, altering rate divisions, changing the executive personnel, and scrambling both the property and the earning power of carriers. At a time when the competition of water carriers, motors, and airplanes is becoming more decisive; when the rate structure is being revamped in terms of a mileage basis; and when the possibility of unified terminals creates new problems of traffic distribution—the scheme of consolidation adds its share to the confusion. Consolidation probably would not affect the total earnings of the railroads of America, but no one can say what the result might be on specific carriers.

"Not only would the carriers directly involved in a particular consolidation have new traffic and financial problems to face, but connecting lines as well would be concerned."

#### ECONOMIES

In section 4 of his study Doctor Kidd presents very concisely the conflicting views of students of traffic problems as to economies which may be expected from the consolidation of railroads. These views have been set forth in the quotations from the testimony of various witnesses given at the hearings before both bodies of Congress. He says:

"Those who expect economies from the consolidation of railroads pre-suppose the following: Concentration of shops, unification of facilities, reduction of empty car miles, elimination of interchange and per diem accounting, large scale purchasing, standardization of equipment, direct routing, reduction in the size of administrative, labor, and clerical forces, and savings in advertising and solicitation.

"On the side of those who think that consolidation will result in marked economies was the late Senator Cummins. Testifying before the Senate Committee on Interstate Commerce Senator Cummins said he believed that railroad consolidation in this country would result in a saving of \$100,000,000 to \$300,000,000 per annum. In the proposal to unify the Hill roads it has been estimated that the annual savings will amount to \$10,000,000. In the hearings on the acquisition of the Buffalo & Susquehanna by the Baltimore & Ohio, the latter pointed out that the new route across the State, which has already been discussed, would obviate an expenditure of \$30,000,000 in the Pittsburgh district, and result in a saving of 231,000,000 gross ton-miles. The Interstate Commerce Commission in its discussion of the Nickel Plate merger admitted the possibility of an annual saving on operating expenses of \$6,000,000.

"Numerous estimates of economies, such as the foregoing, can be cited, but at best they are merely opinions as to what may happen. The problem is of such moment that it merits a scientific study conducted by statisticians, accountants, engineers, and men familiar with traffic and operating problems of railroads.

"In Great Britain, where railroad consolidation has been in effect since 1923, we find the same conflicting views. On the one hand there is the opinion that amalgamation has 'produced many advantages.' On the other hand there is the invective of Lord Monkswell: 'The claim which was made that amalgamation would produce large economies \* \* \* is one more illustration of the contempt for the intelligence of the public which is characteristic of the railway hierarchy.'

"Our own opinion is that in the long run the consolidation of railroads in Great Britain will produce substantial economies.

"Granting that there are undoubted savings to be accomplished by the consolidation of railroads, it is necessary to recognize the limits within which economies can be effected.

"1. The true measure of the economies of amalgamation is not the gross, but the net savings that result from it. From all gains due to consolidation the attendant losses must be subtracted. Two examples of this principle are (a) routing, and (b) capital expenditure resulting from consolidation.

"(a) In certain cases consolidation may result in more direct routing; in other cases it may lead to circuitous routing due to the principle of the long haul. Only after a careful study of car movements over a long period of time would it be possible to say whether on balance there is a gain or loss in the efficiency of routing.

"(b) The investment of capital is usually implied when savings are expected, and represents the price of economy. This element of the problem is stressed by Sir Josiah Stamp, president of the London, Midland & Scottish Railway, who in discussing the 'glibly given and blithely estimated economies of the politicians,' says: 'People talk glibly about economies but it is not realized that physically they are often most expensive to bring about and need considerable capital resources.'

"To the extent that consolidations are effected by issuing bonds to finance the purchase of stock of the subsidiary companies, fixed charges will be increased. From the point of view of the stockholders of the parent companies, therefore, mergers may result in financial structures that are top heavy with funded debts.

"2. Based on the experience of British railway consolidations, we may expect little if any reduction in prices which railroads will have to pay for equipment. In England the purchases of the amalgamated companies are usually so distributed among producers that the discounts are not greater than they were before the consolidation.

"3. So far as standardization of railroad equipment is concerned, probably the largest economies have already been achieved through the American Railway Association.

"4. As for administrative expenses, there are limits to the economies that can be effected. The enlarged railroads proposed by the Interstate Commerce Commission will be compelled to operate as divisions or regions. These regional organizations will have many of the administrative features of local railroads, and will probably be presided over by vice presidents and staff officers.

"5. The possible economies of consolidation depend on the nature of the railroads involved: Whether parallel lines, or end-to-end. In the former case unification of facilities makes possible certain savings which would not be expected in case the lines were complementary.

"6. Whether the economies of consolidation would be large or small would depend to a great extent on the policy of labor displacement that prevails."

(For more complete discussion of effect on labor see that heading in this study.)

#### RATE STRUCTURE IN GENERAL CONFORMS TO ECONOMIC NEEDS

Considering the theory that the rate structure of the country may be revised in terms of the economic needs of the country as a whole if the railroads are large enough to have a diversified traffic, as suggested in the testimony given by President Hoover at the hearings before this committee on May 21, 1924, reference to which has heretofore been made, Doctor Kidd suggests that the rate structure in the country in a general way now conforms to the principle, that the commission is instructed under the Hoch-Smith resolution to apply it in revising the rate structure; that the Interstate Commerce Commission has the power to control the revision of rates and that a revised rate structure might be put into effect without changing the identity of existing carriers; and, finally:

"If it is impossible to create a rate structure in terms of the broadest economic interests of the country as a whole without wholesale railroad consolidation, the latter should be suspended until the Interstate Commerce Commission has drawn its conclusions from the completed record in the Hoch-Smith investigation and is prepared to defend consolidations in the terms of its findings."

#### FEW BELIEVE RATE REDUCTIONS WILL FOLLOW CONSOLIDATIONS

As to the possibility of a reduction of rates resulting from consolidation he states that the theory that rates may be lowered as a result of consolidation has few advocates. In this connection he quotes from a statement of Prof. Winthrop M. Daniels, of Yale, appearing in the proceedings of the Academy of Political Science, June, 1929, page 110, as follows:

"There are some things in the act of 1920 about which I wish to say a word or two in the way of adverse criticism. I think it is true that the passage of the act of 1920 with its permission of railroads to consolidate under certain circumstances was based in part upon the utopian idea that drastic reduction of operating expenses could readily be translated into substantial reductions in the general level of rates. There never was any solid, quantitative reasoning upon which the expectation was based. A wholly superficial assimilation of railroad transportation to industries where mass production and minutely specialized fabrication have yielded astounding reductions in unit costs seems to have prompted this ill-starred illusion. Moreover, experience since the war seems to have established two facts: First, that



the notable economies in railroad transportation have been realized in the main through methods that are not remotely connected with company consolidation; and second, that the gains, actual or claimed, for consolidation in the immediate curtailment of aggregate expenses are so modest in measure as to negative the idea that they can be the speedy harbingers of rate reductions. This is not to say that these economies should not be promoted and encouraged through consolidation. But we should cease to entertain unfounded anticipations on this score."

He does believe, however, that in certain local situations shippers might benefit from railroad grouping and especially where a penalty charge is assessed on two line hauls.

#### CHIEF MOTIVE FOR CONSOLIDATIONS CONTROL OF TRAFFIC

Going from financial economies to practical economies he summarizes the views of such men as Mr. Daniel Willard which have heretofore been set out in this study and reaches the following conclusion:

"From opinions gathered from all sources we are convinced that the chief motive of those who advocate consolidations is not the economies that may be expected but the control of traffic that may result."

The remainder of the study deals largely with other railroads operating in the State of Pennsylvania. Reference will be made to some of these under the heading of "Proposed Consolidations."

#### PROPOSED CONSOLIDATIONS

(Plan of commission, 159 I. C. C. 522)

Any attempt to discuss in detail the complete plan of consolidation of the commission would be not only impracticable but presumptuous. Thousands of pages of testimony have been taken and several years spent in study by members of the commission in an effort to formulate a plan, to say nothing of the work of Professor Ripley. The fact that the commission has year after year asked to be relieved from the task of preparing a plan, and that when it was finally promulgated there were four special concurrences, which were in reality dissents, indicates the practical impossibility of devising a plan with which there will not be substantial disagreement. A few of the major differences of opinion may well be noted.

The majority opinion, without any statement of reasons, groups the railroads of the country (including those with Canadian connections) into 21 systems.

Without copying the entire plan, in order that some of the important differences of opinion may be set out, there are listed below the Class I roads in each proposed system, with notations indicating roads which are already controlled by the principal road or roads of each system.

The report of the commission states:

"Wherever in this report a railway property is named, unless an exception is specifically named, it is intended to and shall be understood as including all subsidiary, owned, controlled, leased, or operated lines."

("S" after name of road denotes present control by main road of system.)

#### System No. 1. Boston & Maine

Boston & Maine Railroad.  
The Delaware & Hudson Co.  
Bangor & Aroostook Railroad Co.  
Maine Central Railroad Co.  
Rutland Railroad Co., O. & L. C. division, Rouses Point to Ogdensburg.

#### System No. 2. New Haven

The New York, New Haven & Hartford Railroad Co.  
New York, Ontario & Western Railway Co. (S).  
The New York Connecting Railroad Co. (undivided one-half interest) (S½).  
The Lehigh & Hudson River Railway Co.  
Lehigh & New England Railroad Co.

#### System No. 3. New York Central

The New York Central Railroad Co., including—  
Boston & Albany Railroad (S).  
The Michigan Central Railroad Co. (S).  
The Cleveland, Cincinnati, Chicago & St. Louis Railway Co. (S).  
The Cincinnati Northern Railroad Co. (S).  
The Pittsburgh & Lake Erie Railroad Co. (S).  
Evansville, Indianapolis & Terre Haute Railway Co. (S).  
The Virginian Railway Co. (except Gilbert Branch).  
The Ulster & Delaware Railroad Co.  
Rutland Railroad Co., except O. & L. C. division.  
The Monongahela Railway Co. (undivided one-third interest).

#### System No. 4. Pennsylvania

The Pennsylvania Railroad Co.  
The Long Island Railroad Co. (S).  
West Jersey & Seashore Railroad Co. (S).  
Baltimore, Chesapeake & Atlantic Railway Co. (S).  
The New York Connecting Railroad Co. (undivided one-half interest) (S).  
The Monongahela Railway Co. (undivided one-third interest) (S½).

#### System No. 5. Baltimore & Ohio

The Baltimore & Ohio Railroad Co.  
Reading Co.  
The Central Railroad Co. of New Jersey (S-Reading).  
Buffalo & Susquehanna Railroad Corporation (S).  
Atlantic City Railroad Co. (S-Reading).  
The Staten Island Rapid Transit Railway Co. (S).  
Perkiomen Railroad Co. (S-Reading).

Port Reading Railroad Co. (S-Reading).  
 The Chicago & Alton Railroad Co.  
 Buffalo, Rochester & Pittsburgh Railway Co. (S).  
 Detroit, Toledo & Ironton Railroad Co. (undivided one-half interest).  
 The Detroit & Toledo Shore Line Railroad Co. (undivided one-half interest).  
 Chicago, Indianapolis & Louisville Railway Co. (undivided one-half interest).  
 Trackage rights over Western Maryland between Shippensburg, Pa., and Cherry Run, W. Va.  
 The Monongahela Railway Co. (undivided one-third interest) (S1/3)

*System No. 6. Chesapeake & Ohio-Nickel Plate*

The Chesapeake & Ohio Railway Co. (excluding Chesapeake & Ohio Railway Co. of Indiana).  
 The Hocking Valley Railroad Co. (S).  
 Pere Marquette Railway Co. (S).  
 Erie Railroad Co. (Including Chicago & Erie Railroad Co., New York, Susquehanna & Western Railroad Co., and New Jersey & New York Railroad Co.).  
 The Delaware, Lackawanna & Western Railroad Co.  
 The New York, Chicago & St. Louis Railroad Co.  
 Bessemer & Lake Erie Railroad Co.  
 The Pittsburg & Shawmut Railroad Co.  
 Chicago & Illinois Midland Railway Co.  
 The Detroit & Toledo Shore Line Railroad Co. (undivided one-half interest).  
 Also the following trackage rights:  
   Over the Baltimore & Ohio from Dayton, Ohio, to Hamilton and Cincinnati, Ohio, and Indianapolis, Ind.  
   Over the Southern from Orange, Va., to Potomac Yards, Va.  
   Over the Cleveland, Cincinnati, Chicago & St. Louis, and Baltimore & Ohio, from Rushville, Ind., to Louisville, Ky.  
   Over the Louisville & Nashville from Lexington to Louisville, Ky.  
 Detroit & Mackinac Railway Co.

*System No. 7. Wabash-Seaboard*

Wabash Railway Co.  
 Lehigh Valley Railroad Co.  
 The Wheeling & Lake Erie Railway Co.  
 The Pittsburgh & West Virginia Railway Co.  
 Western Maryland Railway Co.  
 The Akron, Canton & Youngstown Railway Co.  
 Toledo, Peoria & Western Railroad.  
 The Ann Arbor Railroad Co. (S-Wabash).  
 Norfolk & Western Railway Co.  
 Seaboard Air Line Railway Co.  
 Detroit, Toledo & Ironton Railroad Co. (undivided one-half interest).

Also the following trackage rights:

Over the Pennsylvania from Logansport to Effner, Ind.  
 Over the Grand Trunk Western, Ashley to Muskegon, Mich.  
 Over the Reading between Shippensburg and Harrisburg, Pa.  
 Over the Pennsylvania from Harrisburg to Rockville, Pa.  
 Over the Reading from Rockville to Blackwood, Pa.  
 Over the Reading from South Bethlehem to Philadelphia, Pa.  
 Over the Pennsylvania from Delphos, Ohio, to Fort Wayne, Ind.

*System No. 8. Atlantic Coast Line*

Atlantic Coast Line Railroad Co.  
 Louisville & Nashville Railroad Co. (S).  
 The Nashville, Chattanooga & St. Louis Railway (S).  
 Clinchfield Railroad Co. (S).  
 Atlanta, Birmingham & Coast Railroad Co. (S).  
 Gulf, Mobile & Northern Railroad Co.  
 New Orleans Great Northern Railroad Co. (S).  
 Chicago, Indianapolis & Louisville Railway Co. (undivided one-fourth interest).  
 Charleston & Western Carolina Railway Co.  
 Mississippi Central Railroad Co.

*System No. 9. Southern*

Southern Railway Co. (excluding Mobile & Ohio Railroad Co.).  
 Norfolk Southern Railroad Co.  
 Tennessee Central Railway Co. (portion Nashville to Harriman).  
 Florida East Coast Railway Co.  
 Chicago, Indianapolis & Louisville Railway Co. (undivided one-fourth interest).  
 Georgia & Florida Railroad.

*System No. 10. Illinois Central*

Illinois Central Railroad Co.  
 Gulf & Ship Island Railroad Co. (S).  
 The Yazoo & Mississippi Valley Railroad Co. (S).  
 Central of Georgia Railway Co. (S).  
 The Minneapolis & St. Louis Railroad Co.  
 Tennessee Central Railway Co. (Nashville to Hopkinsville).  
 St. Louis Southwestern Railway Co.  
 St. Louis Southwestern Railway Co. of Texas.  
 Louisiana Railway & Navigation Co. of Texas.

*System No. 11. Chicago & North Western*

Chicago & North Western Railway Co.  
 Chicago, St. Paul, Minneapolis & Omaha Railway Co. (S).  
 Chicago & Eastern Illinois Railway Co.  
 Mobile & Ohio Railroad Co.  
 Columbus & Greenville Railway Co.  
 Lake Superior & Ishpeming Railroad Co.

*System No. 12. Great Northern-Northern Pacific*

Great Northern Railway Co.  
 Northern Pacific Railway Co.  
 Spokane, Portland & Seattle Railway Co. (S-Both).

*System No. 13. Milwaukee*

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.  
 Duluth, Missabe & Northern Railway Co.  
 The Duluth & Iron Range Rail Road Co.

*System No. 14. Burlington*

Chicago, Burlington & Quincy Railroad Co.  
 The Colorado & Southern Railway Co. (S).  
 Fort Worth & Denver City Railroad Co. (S).  
 Quincy, Omaha & Kansas City Railroad Co. (S).  
 Green Bay & Western Railroad Co.  
 Missouri-Kansas-Texas Railroad Co.  
 Missouri-Kansas-Texas Railroad Co. of Texas.  
 The Trinity & Brazos Valley Railway Co. (undivided one-half interest) (S½).

*System No. 15. Union Pacific*

Union Pacific Railroad Co.  
 Los Angeles & Salt Lake Railroad Co. (S).  
 Oregon Short Line Railroad Co. (S).  
 Oregon-Washington Railroad & Navigation Co. (S).  
 St. Joseph & Grand Island Railway Co. (S).  
 The Kansas City Southern Railway Co.  
 Texarkana & Fort Smith Railway Co. (S).  
 Utah Railway Co.  
 Bingham & Garfield Railway Co. (undivided one-half interest).

*System No. 16. Southern Pacific*

Southern Pacific Co.  
 Texas & New Orleans Railroad Co. (S).  
 Northwestern Pacific Railroad Co. (S).  
 San Diego & Arizona Railway Co.  
 Nevada Northern Railway Co. (undivided one-half interest).

*System No. 17. Santa Fe*

The Atchison, Topeka & Santa Fe Railway Co.  
 Gulf, Colorado & Santa Fe Railway Co. (S).  
 Kansas City, Mexico & Orient Railway Co. (S).  
 Kansas City, Mexico & Orient Railway Co. of Texas (S).  
 Panhandle & Santa Fe Railway Co. (S).  
 Chicago Great Western Railroad Co.  
 Missouri North Arkansas Railway Co.  
 Midland Valley Railroad.

*System No. 18. Missouri Pacific*

Missouri Pacific Railroad Co.  
 New Orleans, Texas & Mexico Railway Co. (S).  
 The Beaumont, Sour Lake & Western Railway Co. (S).  
 International & Great Northern Railroad Co. (S).  
 St. Louis, Brownsville & Mexico Railway Co. (S).  
 San Antonio, Uvalde & Gulf Railroad Co. (S).  
 The Texas & Pacific Railway Co. (S).  
 Kansas, Oklahoma & Gulf Railway Co.  
 Fort Smith & Western Railway Co.  
 The Western Pacific Railroad Co.  
 The Denver & Rio Grande Western Railroad Co. (S½).  
 The Denver & Salt Lake Railway Co.  
 Missouri-Illinois Railroad Co.  
 Bingham & Garfield Railway Co. (undivided one-half interest).  
 Nevada Northern Railroad Co. (undivided one-half interest).

*System No. 19. Rock Island-Frisco*

The Chicago, Rock Island & Pacific Railway Co.  
 The Chicago, Rock Island & Gulf Railway Co. (S).  
 St. Louis-San Francisco Railway Co.  
 St. Louis, San Francisco & Texas Railway Co. (S-Frisco).  
 Fort Worth & Rio Grande Railway Co. (S-Frisco).  
 Louisiana & Arkansas Railway Co.  
 The Trinity & Brazos Valley Railway Co. (undivided one-half interest) (S. R. I. ½).  
 Louisiana Railway & Navigation Co.  
 Wichita Falls & Southern Railroad Co.

*System No. 20. Canadian National*

Canadian National Railway Co. lines in New England.  
 Central Vermont Railway Co. (S).  
 Duluth, Winnipeg & Pacific Railway Co. (S).  
 Grand Trunk Western Railway Co. (S).

*System No. 21. Canadian Pacific*

Canadian Pacific Railway Co. lines in New England.  
 Spokane International Railway Co. (S).  
 Minneapolis, St. Paul & Ste. Marie Railway Co. (S).  
 Duluth, South Shore & Atlantic Railway Co. (S).

## NEW ENGLAND

In New England territory the commission groups the roads in two systems.

Commissioner Eastman sees no reason for interfering with the present control exercised over the Boston & Albany by the New York Central and does not favor the assignment of the Rutland to the New York Central. He also doubts whether the advantages of acquisition by the New England lines of the Delaware & Hudson,



Lehigh & Hudson, and Lehigh & New England would be sufficient to offset the probable cost of their acquisition.

Commissioner Porter favors the unification of all the New England rail lines into a single comprehensive system. He objects to the allocation of the Delaware & Hudson to the New England groups because of the limitation of competition.

Professor Ripley had suggested a trunk-line plan, by which the Boston & Maine should be consolidated with his proposed Erie system, and the Maine Central and the Bangor & Aroostok with the New York Central, connection being obtained over the lines of the Boston & Maine; but favored a single New England system embracing the New Haven, the Boston & Maine, the Maine Central, and the Bangor & Aroostok. The Boston & Albany and the Grand Trunk were to be left as competitors.

The tentative plan of the commission proposed a single group plan, quite similar to that proposed by Professor Ripley, with an alternative plan, adding the Delaware & Hudson; Ulster & Delaware; Delaware, Lackawanna & Western; Buffalo, Rochester & Pittsburgh; Pittsburg & Shawmut; and Pittsburg, Shawmut & Northern, making a New England-Great Lakes system.

It will thus be seen that there is a wide divergence of opinion as to this territory alone, and while the commission has endeavored to meet the objections to a single system based on suppression of competition, and apparently adopted the theory that New England should be assured of competitive conditions by having its roads left free to deal with all outside roads, it has found it necessary to include the Delaware & Hudson in the New England systems thereby minimizing the competition it is seeking to preserve.

#### EASTERN TERRITORY

In eastern territory, the disagreement is more marked. The commission plan provides for the five systems outlined above.

#### DISAGREEMENT AS TO NUMBER OF SYSTEMS

Commissioner Porter disagrees most strenuously with the "fifth system" plan, and especially as to the make-up of the proposed Wabash-Seaboard system, saying: "Any unbiased mind must be impressed with the absolute futility of the allocation as proposed by the majority." In his opinion the railways in eastern territory should be so grouped as to create systems outside the New York Central and Pennsylvania of approximately equal strength and comparable in size, and the only proper plan of consolidation in that territory is one providing for the retention of the Pennsylvania and New York Central and the creation of two additional systems, which he has proposed be formed as the Baltimore & Ohio and the Chesapeake & Ohio systems.

Commissioner Eastman, on the other hand, seeing no reason for building up systems equal in size to the Pennsylvania and New York Central suggests seven systems in addition to the two large ones, one of these being largely a southern system.

Professor Ripley favored five systems, differing considerably, however, from those proposed in the final plan of the commission.

#### READING

The commission plan and that suggested by Commissioner Porter both propose the inclusion of the Reading system in the Baltimore & Ohio system. Commissioner Eastman believes that a separate Reading system should be created, composed of the Reading, the Central of New Jersey, the Western Maryland, and the Lehigh & Hudson. This consolidation as proposed by the commission has aroused great opposition, and a great part of Doctor Kidd's study is devoted to it. At the close of his very comprehensive analysis, he says:

"We can not see in this proposal a 'clear and strong showing of public gain' from the standpoint of the State of Pennsylvania, and therefore oppose the consolidation of the Reading and the Baltimore & Ohio."

#### NORFOLK & WESTERN

The Pennsylvania owns 43.34 per cent of the total outstanding common stock of the Norfolk & Western, one of the most profitable roads of the country. This road has been affiliated with the Pennsylvania for nearly 30 years. The commission plan proposes to place the Norfolk & Western in the Wabash-Seaboard system. Commissioner Eastman would require its separation from the Pennsylvania. Commissioner Porter would leave it in the Pennsylvania system. Professor Ripley, while indicating his belief that the Norfolk & Western was a connection of the Pennsylvania and not a competitor, finally recommended that it be consolidated with the Virginian, but the commission in 1926 denied the application of the Norfolk & Western to control, by lease, the Virginian on the ground that the roads were highly competitive, and that the Virginian more properly fitted in with the Chesapeake & Ohio (117 I. C. C. 67). However, under the complete plan, the Virginian is placed in the New York Central system by the commission order. Commissioner Eastman is in doubt as to its proper disposition, suggests that it be left alone, but given a physical connection with the Kanawha & Michigan line of the New York Central, with the thought that if the Chesapeake & Ohio were converted into an independent system, the Virginian could be made a part of it without detriment to the public interest. Commissioner Porter agrees with the assignment to the New York Central. Doctor Kidd concludes that the Norfolk & Western should retain its long-time affiliation with the Pennsylvania, and in case of consolidation that it should become part of the Pennsylvania system.

#### LEHIGH VALLEY

The Lehigh Valley is included in the proposed Wabash-Seaboard system by the plan of the commission. Commissioner Porter suggests placing it in the New York Central system. Commissioner Eastman, although conceding that the Lehigh and the Lackawanna are parallel and competing lines, suggests their combination as involving less loss of competition than the proposed combination of the Erie and Lackawanna. Professor Ripley proposed to add strength to the Erie by consolidating the Lehigh with it. Doctor Kidd concludes that from the standpoint of the State of Pennsylvania it should

remain an independent railroad. To further complicate the situation, it appears from the statement of Commissioner Porter in his concurring opinion on the consolidation plan that the Pennsylvania directly and indirectly owns or controls a majority of the stock of the Wabash, and owns a substantial, if not a controlling interest in the Lehigh, and a complaint has been issued by the commission against the Pennsylvania by reason of such stock ownership in the two roads mentioned.

#### CHESAPEAKE & OHIO-NICKEL PLATE SYSTEM

By the complete plan, the Chesapeake & Ohio, the Erie system, the Lackawanna, and the Nickel Plate are grouped in system No. 6.

Commissioner Porter agrees with the general plan as to the assignment of the roads referred to in this paragraph. Commissioner Eastman favors the combination of the Erie and Nickel Plate even though they are parallel and competing lines, but believes that the common control of the Chesapeake & Ohio and Erie systems should be terminated. Chairman McManamy does not believe that the Erie and Nickel Plate, or the Lackawanna and Erie, which are parallel and competing lines, may lawfully be consolidated. He says:

"None of these are weak lines and no reason exists for their consolidation except to create bigger systems."

Professor Ripley's plan was to combine the Erie, the Lehigh Valley, and the eastern half of the Wabash in one system and the Lackawanna, the Nickel Plate, and the Clover Leaf in another, with the Chesapeake & Ohio as a separate system. The commission in 1926 denied the application of the Nickel Plate to control the Chesapeake & Ohio, the Pere Marquette and the Erie, on the ground that the consideration, terms and conditions were not found just and reasonable (105 I. C. C. 425), and in 1928 denied the application of the Chesapeake & Ohio to acquire control of the Erie as not in the public interest (138 I. C. C. 537), but permitted the acquisition of the Hocking Valley and Pere Marquette. Doctor Kidd is of the opinion after his study that because of the improvement in management of the Erie under the Van Sweringen control, and since the Erie should be grouped with other carriers to hold its position in eastern territory, the suggested allocation should stand.

#### NEW FOUR-SYSTEM PLAN

Since the preparation of the foregoing it has been announced that the executives of the four leading railroad systems operating in eastern territory have agreed upon a consolidation program calling for the formation of four eastern railroad systems with assignments of the principal Class I roads as follows:

To the New York Central, the Delaware, Lackawanna & Western Railroad, and a direct connection with the Virginian Railway at Deepwater, including joint rates and routes over that railway.

To the Pennsylvania, the Wabash, the Detroit, Toledo & Ironton, and the Norfolk & Western.

To the Baltimore & Ohio, the Ann Arbor Railroad, the Reading and Central Railroad of New Jersey, the Western Maryland, Buffalo, Rochester & Pittsburgh, the Buffalo & Susquehanna, the Lehigh & Hudson River, and the Chicago & Alton.

To the Chesapeake & Ohio-Nickel Plate system and the Hocking Valley will be added the Erie Railroad, the Bessemer & Lake Erie, the Pere Marquette, the Wheeling & Lake Erie, the Chicago & Eastern Illinois and the Lehigh Valley, with certain rights to the Pennsylvania on the Lehigh Valley.

The Grand Trunk western lines are to continue with the Canadian National Railways.

#### CLASS I ROADS JOINTLY CONTROLLED

The Lehigh & New England, Delaware & Hudson, Monongahela, Montour, Pittsburgh & West Virginia and Pittsburgh, Chartiers & Youghiogheny are, under the proposed plan, to be jointly controlled by the four principal systems.

#### MATTERS UNDISPOSED OF

Such matters as the question of granting certain trackage rights to the Pennsylvania over the Nickel Plate along the southern shore of Lake Erie are yet to be decided, and the disposition of the Virginian is not determined in the proposed plan.

#### CLASS I ROADS NOT MENTIONED

The following Class I roads, classified in the statistics of the Interstate Commerce Commission as being in eastern territory, and not considered New England roads, were not mentioned in the announcement of the proposed plan:

Detroit & Toledo Shore Line.

Pittsburg & Shawmut.

Chicago & Illinois Midland.

Detroit & Mackinac.

Akron, Canton & Youngstown.

Chicago, Indianapolis & Louisville.

Pittsburg, Shawmut & Northern.

Elgin, Joliet & Eastern.

Illinois Terminal Company.

Ulster & Delaware (not mentioned in announcement but shown in maps and tables attached to Congressman Parker's speech, referred to *infra*, as to be acquired by New York Central).

#### STATEMENT OF EXECUTIVES OF SYSTEMS

In a letter informally presenting the plan to the Interstate Commerce Commission the presidents of the Pennsylvania, the New York Central, the Baltimore & Ohio, and the Chesapeake & Ohio quote from that portion of the opinion of the commission on the complete plan of consolidation (159 I. C. C. 522), stating among other things:

Section 5 provides that after we have adopted our plan, as we here do, we may, either upon our own action or upon application, reopen the matter for such changes or modifications as in our judgment will promote the public interest. Such applications will afford opportunity for further consideration upon adequate and recent records of the various parts of the plan.

Following this quotation they say:

Following the publication of this opinion, the representatives of the Pennsylvania, Baltimore & Ohio, Chesapeake & Ohio, Nickel Plate, and New York Central systems have had a number of conferences on this subject. The suggestions of the commission contained in the above quotation, that changes and modifications might be approved by the commission as promoting the public interest, has led to an attempt to provide within the limits of a 4-party plan the allocation of nearly all the properties in accordance with what we conceive to be the principles followed by the commission in its 5-party plan.

As a result of these negotiations, an agreement covering the allocation of the principal carriers in the eastern group (excluding New England) has been reached. This agreement is interdependent and could not have been reached upon any different basis of allocation. Probably no single one of the groups herein proposed is exactly what those interests in such a grouping would wish it to be. In order to reach a common understanding it has repeatedly been necessary for all of the interests involved to make concessions. It is believed, however, that each of the systems resulting from the grouping we suggest will be able to operate efficiently, maintain its credit, and serve the public better than the same amount of mileage operated in a less coordinated manner as at present.

#### SITUATION MORE COMPLICATED

A study of this proposed program has not been completed. However, the situation has become still more complicated.

#### SUGGESTED PLAN DIFFERS RADICALLY FROM COMMISSION PLAN

The proposed plan, of course, does not correspond to the complete plan of the commission. The Wabash, Lehigh Valley, Wheeling & Lake Erie, Pittsburg & West Virginia, Western Maryland, Ann Arbor, and Norfolk & Western, the principal constituent roads of the proposed Wabash-Seaboard system are distributed among the four systems as above noted, except that the Pittsburg & West Virginia is to be jointly controlled. The Lackawanna, which under the plan of the commission was to become a part of the Chesapeake & Ohio-Nickel Plate system, goes to the New York Central; the Lehigh & Hudson, assigned by the commission to the New Haven system goes to the Baltimore & Ohio; and the Chicago & Eastern Illinois, assigned by the commission to the Chicago & Northwestern, it is proposed, shall become part of the Chesapeake & Ohio-Nickel Plate system.

#### NEW PLAN INCONSISTENT WITH ORIGINAL RIPLEY PLAN

Following the announcement of the proposed four-system plan, Professor Wm. Z. Ripley, of Harvard, who prepared the original plan for the Interstate Commerce Commission and whose magazine article urging consolidations has been quoted, issued a statement fully approving the proposed four-system plan. In his plan as submitted to the commission, Professor Ripley provided for five systems in eastern territory. His proposed systems were as follows:

New York Central system:

Existing New York Central system less Lake Erie & Western, Toledo & Ohio Central, Kanawha & Michigan; with the Rutland Railroad and possibly the Worcester, Nashua & Portland added.

Pennsylvania system:

Existing Pennsylvania system. (Not Norfolk & Western.)

Baltimore & Ohio system:

Existing Baltimore & Ohio system, Chicago, Indianapolis & Louisville (Monon), Reading, Central of New Jersey. (Not Western Maryland.)

Erie system:

Existing Erie system, Delaware & Hudson, New York, Ontario & Western, Lehigh Valley, Wabash Eastern lines, Bessemer & Lake Erie.

Nickel Plate system:

Existing Nickel Plate system (New York & Chicago & St. Louis): Delaware, Lackawanna & Western; Toledo, St. Louis & Western (Clover Leaf); Lake Erie & Western; Wheeling & Lake Erie; Pittsburgh & West Virginia; Western Maryland; Buffalo, Rochester & Pittsburgh.

Some of Professor Ripley's comments in his opinion are interesting in view of his present position.

Discussing the possible inclusion of the Erie and Nickel Plate-Lackawanna in one system he says:

"To this procedure there are two objections of decisive importance. The first is that the Erie and Nickel Plate-Lackawanna, with their extensions to St. Louis, as above described, parallel each other almost completely from end to end, without at the same time being near enough together to produce the possible advantage of joint operation. \* \* \* Another reason urged for throwing all of these lines, except the Pennsylvania, New York Central, and Baltimore & Ohio, into a single system is that their aggregate tonnage would then just about equal that of the Pennsylvania system. \* \* \* Considering the detached character of many of these properties, a heterogeneous, aggregation altogether surpassing possibility of efficient management would certainly be produced. It is believed, therefore, that five systems rather than four will best satisfy the needs of the territory in the years to come. \* \* \*

"All things considered, especially having in view the fact that most of the trunk-line business of future years is likely to accrue to these existing companies, it is believed that sound national policy should endorse the independence of all five. Feeders, entrances, and approaches may be built in future years but new main stems are unlikely. If perchance these two stems of the Erie and the Lackawanna-Nickel Plate are not yet adequately supported in this regard, the deficiencies may be supplied. But if the two stems were once merged and in years to come there proved to be business enough for both, it would be difficult, if not impossible, to dismember the alliance. This plan proceeds, therefore, to construct, as well as may be out of the existing material, five independent trunk lines. \* \* \* The New York Central and the Pennsylvania have substantially fulfilled their destiny within the confines of this region. In other words, they reach all of the important centers and gateways and enjoy a sufficiency of direct lines criss cross from point to point all over their own roads. Their problems for the future are of intensive rather than extensive development and it will be found that certain lines may be abstracted, or, at all events, given



joint usage by the other groups without injury to them commensurate with the advantage which would accrue to the trunk-line territory as a whole from equalization of competitive strength. \* \* \* The Pennsylvania has already obtained a predominance among the trunk lines which renders further accession undesirable. This, again, is a serious objection to permanent incorporation within the Pennsylvania group of the Norfolk & Western Railway. This property has been controlled and largely developed under a substantial stock ownership by the credit of the Pennsylvania. \* \* \* But despite this long-standing connection and the substantial investment, wise direction, and highly efficient management, it is believed that sound public policy, viewing the railroad situation as a whole, warrants treatment of the Norfolk & Western as independent rather than a subsidiary part of one of the great trunk lines.

\* \* \* "Regardless of means there can be no question as to the national advantage of provision by one way or another of a western outlet to the Norfolk & Western independent of the Pennsylvania system. \* \* \*

"Shall the Western Maryland be included in the Baltimore & Ohio trunk line group? Consideration of the large map and the preceding text has indicated its importance as a connecting link from Cherry Run on the Baltimore & Ohio for an interior north-east route to New England and New York. In some respects the Western Maryland would thus build in satisfactorily; but on the other hand it is apparent that the two lines practically parallel one another from theseaboard to western Pennsylvania." \* \* \*

After calling attention to a proviso in the sale of the interests of the city of Baltimore in the Western Maryland providing that no title should vest in a purchaser of stock of the Western Maryland if sold to a railroad company controlling, owning or operating any line or system of lines centering, terminating or operating in the cities of Baltimore or Philadelphia, he says:

"But the recommendation to exclude the Western Maryland from Baltimore & Ohio control is final."

Discussing the proposed incorporation in the Lackawanna-Nickel Plate system of the Wheeling & Lake Erie, the Pittsburgh & West Virginia, and the Western Maryland, he says:

"It relieves the Western Maryland, at present hemmed in on all sides by powerful systems, and it would afford it an opportunity to utilize a good and direct stem through the mountains paralleling and affording competition, of course, with the Baltimore & Ohio. \* \* \* The importance to the port of Baltimore of the constitution of a new through route by union of these properties in the Lackawanna-Nickel Plate system is obvious. \* \* \* Keen competition between its [Baltimore & Ohio] historic line to the west and this new system should still further forward the upbuilding of the port."

The foregoing excerpts from the report of Professor Ripley are found in 63 I. C. C., pages 485-508.

#### COMMISSION HAS ORDERED PART OF ROADS PROPOSED TO BE MERGED SEPARATED BECAUSE OF VIOLATION OF CLAYTON ACT

As to the Wabash, assigned to the Pennsylvania, on December 2, 1930, the Interstate Commerce Commission made an order requiring the Pennsylvania Railroad Co. and the Pennsylvania Co. to divest themselves of all capital stock of the Wabash Railway Co. (and Lehigh Valley) upon the ground that "there is substantial competition between the Pennsylvania Railroad and the Wabash" and that the effect of the acquisition by the Pennsylvania Co., a subsidiary of the Pennsylvania Railroad Co., of the stock of the Wabash may be to substantially lessen competition and is in violation of the Clayton Act (Commissioner Aitchison dissenting).

As to the Wheeling & Lake Erie, which under the proposed plan is to be assigned to the Chesapeake & Ohio-Nickel Plate system, the commission on March 11, 1929 (152 I. C. C. 721) ordered the Baltimore & Ohio Railroad, the New York Central, and the Nickel Plate to divest themselves of stock which they had acquired in this road upon the same grounds (Commissioners Woodlock, Brainerd, and Porter dissenting).

As to the Western Maryland, assigned to the Baltimore & Ohio, the commission on January 13, 1930 (160 I. C. C. 785), ordered the Baltimore & Ohio to divest itself of the stock acquired by it in the Western Maryland for the same reasons (Commissioners Farrell, Woodlock, and Brainerd dissenting; Commissioner Porter not participating).

#### COMMISSION, PREVIOUSLY DENIED CHESAPEAKE & OHIO-NICKEL PLATE-ERIE MERGER

As to the Erie, assigned to the Chesapeake & Ohio-Nickel Plate system, the commission on May 8, 1928 (138 I. C. C. 517), denied the application of the Chesapeake & Ohio to acquire control of the Erie on the ground that such acquisition would not be in the public interest. By this decision authority was given to acquire control of the Pere Marquette (Commissioner Porter dissenting from denial of acquisition of Erie; Commissioners Campbell and Eastman dissenting from order allowing acquisition of Pere Marquette; Commissioner Woodlock not voting on Erie and Pere Marquette acquisition).

On March 2, 1926, the commission had denied an application of the New York, Chicago & St. Louis Railway Co., a new corporation, to acquire control of the Chesapeake & Ohio, Hocking Valley, Erie, Pere Marquette, and Nickel Plate on the grounds that the consideration, terms, and conditions of the proposed acquisition of control were not just and reasonable. However, control had been secured of all the roads mentioned through various Van Sweringen companies at the time of the last decision.

#### CONTROL ACQUIRED THROUGH HOLDING COMPANIES

As set out in the report of the commission in 138 I. C. C. 517, after the denial, in 1926, of the application for unification of the Chesapeake & Ohio, Hocking Valley, Erie, Pere Marquette, and Nickel Plate, the Chesapeake Corporation, organized in May, 1927, with O. P.

Van Sweringen as president, acquired a majority of the common stock of the Chesapeake & Ohio which had originally been purchased by the Nickel Plate, its subsidiary, the Special Investment Corporation, and the Vaness Co. The Chesapeake Corporation issued its capital stock ratably to the common shareholders of the Nickel Plate and of the General Securities Corporation which represented the Vaness Co. The Vaness Co. holding a majority of the Nickel Plate voting stock, and a majority of its stock being owned by O. P. and M. J. Van Sweringen, they controlled the Chesapeake & Ohio by their interest in the stock of the Chesapeake Corporation. The majority of the stock of the Erie had been acquired by the Virginia Transportation Corporation, another Van Sweringen company, and the Vaness Co. and 40.5 per cent of the Pere Marquette stock was held by the Virginia Transportation Co., the Vaness Co., and the Nickel Plate.

#### CLASS II AND CLASS III ROADS

No announcement was made as to proposed distribution or acquisition of Class II and Class III roads. There are in eastern territory 66 Class II and III roads, 10 miles or more in length, which are not now subsidiaries of other systems.

A list of these roads with the mileage of each, average net railway operating income for the years 1927-1929, and a record of dividends declared in the same years is attached to this report (p. 216). For the years 1927-1929 these roads are classified as to rate of return as follows:

Rate of return	Number of roads	Mileage
Over 4 per cent.....	18	451.98
3 to 4 per cent.....	9	289.99
2 to 3 per cent.....	7	200.93
1 to 2 per cent.....	6	218.55
Under 1 per cent.....	8	1,458.22
Deficits.....	18	\$ 473.25

<sup>1</sup> 2 roads 270.57.

<sup>2</sup> 9 roads under 20 miles in length and only 1 over 30 miles.

Of these 66 roads 14 paid dividends for the three years 1927-1929; 5 for two out of the three years and 4 for one out of the three years.

#### PROSPEROUS CLASS I ROADS TO BE ACQUIRED

Several of the Class I roads included in the proposed mergers could not be classed as weak roads. The Reading has, since 1913, paid a 4 per cent dividend on its \$50 par value first preferred stock; 4 per cent on its \$50 par value second preferred stock, and 8 per cent on its \$50 par value common stock. The Central of New Jersey has paid dividends of 12 per cent for six years ending December 31, 1929. The Lehigh Valley has, since 1904, paid 10 per cent on its preferred stock and an average of 8 per cent on its common stock and has set up a surplus in excess of the par value of its common stock. The Lackawanna has, since 1921, declared dividends of not less than 12 per cent and set aside a substantial amount as surplus.

#### PRESENT INTERCHANGE OF TRAFFIC READING-LEHIGH VALLEY-LACKAWANNA

The Reading at the present time exchanges traffic with the Pennsylvania, the Western Maryland, the Central of New Jersey, the Baltimore & Ohio, the New York Central, the Lehigh Valley and a number of shorter roads, and, as noted in the report of Doctor Kidd, maintains open gateways via all connecting carriers.

It is one of the most important carriers of bituminous and anthracite coal.

The Lehigh Valley has anthracite interests in Pennsylvania second only to those of the Reading and carries on an interchange of traffic to the Niagara frontier with the Canadian National, the Michigan Central, the New York Central, the Lake lines, the Nickel Plate, the Pennsylvania, the Pere Marquette, and the Wabash.

The Lackawanna, extending from New York to Buffalo and entering the Pennsylvania anthracite fields, has interchange relationships with the Canadian National, the Michigan Central, the New York Central, the Nickel Plate, the Pere Marquette, the Buffalo, Rochester & Pittsburgh, and the Wabash at the Niagara frontier.

As to what effect the proposed mergers will have upon the competitive situation in so far as these roads in particular are concerned and what effect their inclusion in other systems will have upon revenues is a matter for careful study and consideration.

#### STATEMENT OF INTERCHANGE—READING-LEHIGH VALLEY-LACKAWANNA

Following is a statement of loaded cars received by the Reading from connections, and a list of cars delivered by it to connections, during the fourth quarter of 1928, as set out in Doctor Kidd's report, and statements showing interchange of traffic of the Lehigh Valley and the Lackawanna at Buffalo and Niagara frontier points during the last quarter of 1930, prepared from data compiled by the Interstate Commerce Commission at the request of counsel for the committee.

The strong competitive situation now existing at Buffalo and the Niagara frontier will be noted.

#### LOADED CARS RECEIVED BY READING FROM CONNECTIONS DURING THE FOURTH QUARTER OF 1928

Railroad	Number of cars received	Per cent of total
Pennsylvania.....	81,371	22.62
Western Maryland.....	68,676	18.59
Central R. R. of New Jersey.....	62,645	16.95
Baltimore & Ohio.....	61,247	16.68
New York Central.....	41,264	11.17
Lehigh Valley.....	18,021	4.88
Philadelphia, Bethlehem & New England.....	12,262	3.32
Cornwall.....	4,442	1.26
Lehigh & New England.....	4,278	1.16
Upper Merion & Plymouth.....	4,045	1.10
Erie.....	3,452	.93
Delaware, Lackawanna & Western.....	3,080	.83
Steelton & Highspire.....	1,977	.54
Susquehanna & New York.....	1,009	.27
Williamsport & North Branch.....	939	.25
Ironton.....	576	.16
Wildwood & Delaware Bay Short Line.....	155	.04
Quakertown & Bethlehem.....	34	.01
Trenton-Princeton Traction Co.....	9	
Bloomsburg & Sullivan.....	6	
Total.....	369,488	

## LOADED CARS DELIVERED BY READING TO CONNECTIONS DURING THE FOURTH QUARTER OF 1928

Railroad	Number of cars delivered	Per cent of total
Central R. R. of New Jersey	157,904	47.53
Baltimore & Ohio	36,188	10.89
Pennsylvania R. R.	28,554	8.69
New York Central	28,015	8.43
Lehigh Valley	28,263	7.91
Philadelphia, Bethlehem & New England	18,366	5.53
Western Maryland	12,331	3.71
Steelton & Highspire	5,309	1.60
Upper Merion & Plymouth	4,413	1.33
Lehigh & New England	4,095	1.23
Erie	2,890	.87
Delaware, Lackawanna & Western	2,769	.83
Ironton	1,953	.60
Cornwall	1,266	.39
Susquehanna & New York	620	.18
Williamsport & North Branch	517	.15
Wildwood & Delaware Bay Short Line	306	.09
Quakertown & Bethlehem	167	.05
Bloomsburg & Sullivan	157	.05
Trenton-Princeton Traction Co.	125	.04
Stone Harbor R. R.	21	.01
Total	332,218	

## LOADED CARS RECEIVED BY LEHIGH VALLEY FROM CONNECTIONS AT NIAGARA FRONTIER DURING THE FOURTH QUARTER OF 1930

Railroad	Number of cars received	Per cent of total
Nickel Plate	13,869	25.99
Pere Marquette	3,825	7.16
New York Central	7,950	14.89
Michigan Central	4,787	8.97
Canadian National	4,724	8.85
Wabash	6,336	11.87
Pennsylvania	3,659	6.85
Delaware, Lackawanna & Western	708	1.32
Erie	1,337	2.60
Buffalo Creek (terminal)	3,854	7.22
Buffalo, Rochester & Pittsburgh	1,672	3.13
South Buffalo (terminal)	636	1.19
Total	53,357	

## LOADED CARS DELIVERED BY LEHIGH VALLEY TO CONNECTIONS AT NIAGARA FRONTIER DURING THE FOURTH QUARTER OF 1930

Railroad	Number of cars received	Per cent of total
Nickel Plate	5,901	19.07
Pere Marquette	1,232	3.98
New York Central	5,438	17.60
Michigan Central	4,731	15.29
Canadian National	5,182	16.75
Wabash	3,329	10.76
Pennsylvania	1,789	5.76
Delaware, Lackawanna & Western	1,104	3.56
Erie	838	2.71
Buffalo Creek (terminal)	793	2.56
Buffalo, Rochester & Pittsburgh	337	1.09
South Buffalo (terminal)	259	.83
Total	30,933	

## LOADED CARS RECEIVED BY LACKAWANNA FROM CONNECTIONS AT NIAGARA FRONTIER DURING THE FOURTH QUARTER OF 1930

Railroad	Number of cars received	Per cent of total
Nickel Plate	16,987	26.95
Pere Marquette	3,593	5.55
New York Central	7,928	12.57
Michigan Central	5,134	8.14
Wabash	8,048	12.77
Buffalo, Rochester & Pittsburgh	6,597	10.46
Canadian National	5,345	8.48
Pennsylvania	3,158	5.01
Buffalo Creek (terminal)	3,073	4.88
South Buffalo (terminal)	1,515	2.40
Lehigh Valley	1,103	1.75
Erie	625	.99
Total	63,022	

## LOADED CARS DELIVERED BY LACKAWANNA TO CONNECTIONS AT NIAGARA FRONTIER DURING THE FOURTH QUARTER OF 1930

Railroad	Number of cars received	Per cent of total
Nickel Plate	10,042	22.27
Pere Marquette	1,952	4.33
New York Central	3,772	8.36
Michigan Central	4,781	10.60
Wabash	9,022	20.01
Buffalo, Rochester & Pittsburgh	1,744	3.86
Canadian National	10,443	23.18
Pennsylvania	1,054	2.33
Buffalo Creek (terminal)	708	1.57
South Buffalo (terminal)	474	1.05
Lehigh Valley	694	1.53
Erie	352	.84
Total	45,073	

## UNITS OF PASSENGER CAR EQUIPMENT INTERCHANGED AT BUFFALO

## LACKAWANNA RAILROAD

Date	From New York Central	From Wabash	From New York, Chicago, & St. Louis
October, 1930	Cars 290	Cars 62	Cars 248
November, 1930	288	60	240
December, 1930	235	62	248
Total	813	184	736

Total received, 1,733 cars.

Date	To New York Central	To Wabash	To New York, Chicago, & St. Louis
October, 1930	Cars 338	Cars 62	Cars 248
November, 1930	307	60	240
December, 1930	254	62	248
Total	929	184	736

Total delivered, 1,849 cars.



## LEHIGH VALLEY RAILROAD

	Cars
October, 1930:	
Received from New York Central.....	455
Delivered.....	430
November, 1930:	
Received from New York Central.....	371
Delivered.....	398
December, 1930:	
Received from New York Central.....	453
Delivered.....	389
Total cars received 1,279; total delivered, 1,217; total interchanged, 2,496.	

NOTE.—The cars listed above are other than freight cars and include express cars, coaches, and pullman cars. Their interchange is not shown on the regular interchange sheets.

## ARGUMENTS PRO AND CON

Sufficient time has not elapsed since the announcement of the 4-system proposal to permit of any detailed analysis. There are presented, for purposes of information, statements made in a speech of Hon. James S. Parker in the House of Representatives on January 8, 1931, favoring the proposal, and in connection with such statements, brief synopses of statements of the Interstate Commerce Commission in opinions dealing with certain of the roads involved, and as to others brief statements as to existing competition.

## PENNSYLVANIA SYSTEM

Let me call your attention to the map of the Pennsylvania System, being Chart No. 1, which shows in black lines its present operated main track, and the broken lines the trackage to be acquired; note the strategic position it has, running as it does from the eastern seaboard west by the shortest route to points across the mountains. You will see that it is getting very little within its present territory. It is being permitted to go southeast to the Virginia ports, in competition with the Chesapeake & Ohio, and to go west in competition with existing systems. (Speech of Congressman Parker.)

As to the control of the Wabash by the Pennsylvania, in the decision of the commission heretofore referred, the finding of a violation of the Clayton Act was based upon the following grounds, among others:

The vice president in charge of traffic of the Wabash placed in the record tables covering carload shipments for October, 1928, and March, 1929, showing that of 121,106 carloads transported by Wabash on lines east of Mississippi in those months, 91,202, or 75.31 per cent, were competitive with the Pennsylvania, and 29,904 carloads, or 24.69 per cent, were noncompetitive. These figures were disputed by witnesses for the Pennsylvania, but the commission finds:

The record shows that there is substantial competition between the Pennsylvania Railroad and the Lehigh Valley, and between the Pennsylvania Railroad and the Wabash, and we so find.

## NEW YORK CENTRAL SYSTEM

The New York Central, being Chart No. 2, is the other very powerful system in the East. The heavy black lines show the trackage now operated and the broken lines the trackage it would acquire, which shows that it would take over the Lackawanna, letting it into coal fields not now reached by its lines. Otherwise, the New York Central under this arrangement gets practically nothing. I want to emphasize that the two great systems, the New York Central and the Pennsylvania, are getting practically nothing within their sphere of influence. (Speech of Congressman Parker.)

While the commission has not passed upon any proposed consolidation of the New York Central and Lackawanna, an examination of the maps submitted with Congressman Parker's speech shows that there is at present at least the following direct competition between these roads:

Buffalo to New York and reverse.  
Syracuse to New York and reverse.  
Utica to New York and reverse.

This is the obvious competition. An examination of routes and records of shipments might disclose other direct competition. In addition, there is the substantial competition of roads running west from the Niagara frontier for business originating on or coming to the frontier over the Lackawanna, details of which are given in the tables above, which show that during the last quarter of 1930 the Lackawanna delivered to the New York Central and Michigan Central together only 18.96 per cent of all loaded cars delivered by it to connections at the Niagara frontier.

## BALTIMORE &amp; OHIO SYSTEM

Turning now to the map of the Baltimore & Ohio system, being Chart No. 3, the black heavy lines show the trackage now operated and the broken lines the trackage to be acquired, which clearly shows how vital the proposed acquisitions are to that system, in order to bring it to an equality particularly with the Pennsylvania, and to give it an outlet to Buffalo and Rochester on the north, in New York Central and Nickel Plate territory. As Prof. William Z. Ripley points out in his article in *World's Work* for October, 1930, the Baltimore & Ohio is getting a direct route east to New York. At Butler in western Pennsylvania a swing far south to Washington sets in under their present system. Under the proposed acquisitions, by piecing together portions of two little properties, and by then taking trackage or paralleling a few miles of the Pennsylvania, Williamsport is reached. Thence, the Reading and the Central Railroad of New Jersey carry on almost straight into New York. By acquisition of these properties, the line of the Baltimore & Ohio from Chicago to New York is shortened more than 80 miles. This permits the Baltimore & Ohio to enter the heart of both Pennsylvania and New York Central territory. It permits it to haul thousands of trainloads of freight over this much-shortened route. (Speech of Congressman Parker.)

In the decision of the commission in 160 I. C. C. 785, above referred to, the commission based its findings of a violation of the Clayton Act upon the following, among other grounds:

That the line of the Baltimore & Ohio westward from Weverton follows the south bank of the Potomac River, paralleling the line of the Western Maryland on the north bank for a distance of about 60 miles to Cumberland, and continuing to Connellsville and beyond. That between Cumberland and Connellsville the lines of the Baltimore & Ohio and of the Western Maryland traverse the Meyersdale coal district of southern Pennsylvania, serving mines therein. That the Baltimore & Ohio also has important lines extending southwesterly from Cumberland and, together with the Western Maryland, serving the Cumberland-Piedmont and West Virginia coal districts. That the Western Maryland is engaged largely in the transportation of bituminous coal, and that coal from the several districts served by the Western Maryland and the Baltimore & Ohio is shipped to the same destinations, the city of Baltimore being a typical example. That both carriers engage in the transportation of merchandise between Baltimore and other wholesale and jobbing centers and terri-

tory served in common. That it was testified by the vice president in charge of traffic of the Western Maryland that during the month of July, 1928, of cars of coal transported by the Western Maryland 33.1 per cent were competitive with the Baltimore & Ohio and 66.9 per cent noncompetitive, and of all freight carried during that month 43.5 per cent was classified as competitive with the Baltimore & Ohio and 56.5 per cent noncompetitive. This classification was criticized by the Baltimore & Ohio witnesses, who reduced the percentage of competitive traffic to 29.2 per cent. The commission said:

It is unnecessary to detail the contentions, since the result of either classification would leave a large volume of freight that is conceded to be competitive. It is further to be borne in mind that the figures submitted have no reference to so-called market competition to which a much greater volume of freight is subject.

#### CHESAPEAKE & OHIO-NICKEL PLATE SYSTEM

On the Chesapeake & Ohio-Nickel Plate system, being Chart No. 4, the heavy black lines show the trackage now operated and the broken lines the trackage to be acquired and to what extent that system will be strengthened in the East in competition with both the New York Central and the Pennsylvania. As the Baltimore & Ohio is permitted to invade the heart of the Pennsylvania territory from the south, the Chesapeake & Ohio-Nickel Plate system is permitted to invade the Pennsylvania and New York Central territory from the north. It is also given, over the Chicago & Eastern Illinois, a western connection into St. Louis and other points in competition with the Baltimore & Ohio, Pennsylvania, and New York Central. It will be seen that these allocations are necessary to enable the Chesapeake & Ohio-Nickel Plate, as is the case with the Baltimore & Ohio, to compete on an equality with the two great systems, the New York Central and the Pennsylvania. It also more evenly balances its competition with the Baltimore & Ohio. (Speech of Congressman Parker.)

The maps inserted in the Record by Congressman Parker and the exhibit showing detailed figures as to the properties involved show the Erie as a present part of the Chesapeake & Ohio system. That situation has already been discussed. Inasmuch as the acquisition of the Erie was denied by the commission, it appears proper to consider that system as one to be acquired, and to note the remarks of the commission with reference to that proposed acquisition.

In the decision in 138 I. C. C. 517, above referred to, denying the application of the Chesapeake & Ohio to acquire the Erie, the commission stated the following grounds for decision, among others:

We do not consider that the relationship of the Chesapeake & Ohio and the Erie is complementary or supplementary. \* \* \* The Chesapeake-Hocking lines reaching from the seaboard to Lake Erie make contact with practically every important trunk line in eastern and central territory and are thus in position to distribute their coal both east and west over many connecting lines. Control of the Erie by the applicant would tend to disturb this structure and to disrupt existing channels of traffic to a much greater extent than would its control of the Pere Marquette. \* \* \* As we said in our report in Control of Virginian Railway 117 I. C. C. 67, and have repeated in other proceedings, a clear showing of public gain must be made in order adequately to support an affirmative finding in cases of proposed control. We are unable to find such showing in this record so far as it relates to proposed control of the Erie.

The commission did not discuss in this opinion, since the question was not involved, the fact that the lines of the Erie and Nickel Plate parallel each other from Chicago to Buffalo—an objection to the inclusion of the Erie with his proposed Lackawanna-Nickel Plate system stated by Professor Ripley in his report to the Interstate Commerce Commission. (63 I. C. C. 487.)

There is no decision commenting upon the competition now existing between the Eve and Lehigh Valley between Buffalo and New York. Attention is directed to the statistics given above (p. 186) as to the present interchange of traffic of the Lehigh Valley at the Niagara frontier, the statistics showing that only 23.05 per cent of all traffic delivered at that frontier by the Lehigh Valley was delivered to the Nickel Plate and the Pere Marquette, combined.

As to the Wheeling & Lake Erie, attention has already been directed to the decision of the commission in 152 I. C. C. 721.

#### SOUTHERN TERRITORY

As to this territory there is not so much dispute.

Under the commission plan the Norfolk & Western and the Seaboard Air Line are included in the Wabash-Seaboard system. Commissioner Eastman approves the union of the Seaboard and Norfolk & Western but would not join them to the Wabash system.

#### WESTERN TERRITORY

##### GREAT NORTHERN-NORTHERN PACIFIC

In this section one proposed consolidation overshadows all others. It is proposed in the plan of the commission to create System No. 12 by a combination of the Great Northern and Northern Pacific systems, together with certain Class II and III roads. On February 11, 1930, an order was entered by the commission permitting the acquisition of these two roads by the Great Northern Pacific Railway Co. upon compliance with certain conditions, the most important of which was that the Burlington, now controlled half and half by the two northern roads be divorced from such control.

The proposed acquisition was strongly contested by the Milwaukee road; by the State bodies intervening, with one exception, by Chambers of Commerce and farmers' and grain dealers' associations. It was supported by other municipalities and organizations. Strong dissenting opinions were written by Chairman McManamy and Commissioner Eastman. At the hearings on Senate Joint Resolution 161 testimony was given by representatives of railway labor and State commissions and a resolution of the entire Minnesota delegation in the House, in opposition to the proposed consolidation. Thereafter the public utilities commissions of Minnesota, North Dakota, Washington, Montana, Iowa, South Dakota, Illinois, Nebraska, Wisconsin, and Wyoming filed petitions for further hearing, which were concurred in by other commercial bodies, etc., and on October 13, 1930, the matter was reopened by the commission for further hearing. The opinions appear in full in the record of hearings on Senate Joint Resolution 161 at pages 280 et seq. and so fully present the issues that further discussion is unnecessary here. The concurring opinions of Chairman McManamy and Commissioners Eastman and Taylor on the complete plan also express disapproval of this proposed consolidation. Of course the northern roads strenuously object to being divorced from the Burlington, a prosperous road, their Chicago connection, and a very important feeder of business from a large territory. On January 9, 1931, it was announced by the officials of the northern roads that the merger project had been abandoned.

## WESTERN PACIFIC AND DENVER &amp; RIO GRANDE

The commission plan assigns the Western Pacific and the Denver & Rio Grande to the Missouri Pacific system. Commissioner Porter points out that they must compete with the Union Pacific, a very strong carrier; that in his opinion the Missouri Pacific is not in position to give them the strength necessary to compete with the Union Pacific, and that the proper allocation of these two roads would be to his proposed Burlington system. This, of course, again involves the separation of the Burlington from the Northern roads, and so much more complicates an already muddled situation. Commissioner Eastman believes neither in the union of the Northern roads, nor the divorce of the Burlington from them, and therefore would not join the Missouri, Kansas & Texas to the Burlington system.

## KANSAS CITY SOUTHERN

Commissioner Eastman also disagrees with the plan of joining the Kansas City Southern to the Union Pacific, but suggests that the Missouri, Kansas & Texas and the Kansas City Southern be united with each other and with the Chicago Great Western into an independent system.

He also suggests that it might be to the advantage of the Western Pacific and the Denver & Rio Grande Western to be combined as a system independent of the Missouri Pacific affording all lines reaching Denver from the east an outlet to the Pacific coast in competition with the Union Pacific.

More illustrations of inability to agree upon specific consolidations might be given, but those cited are the most conspicuous. A consideration of these differences must lead to the conclusion that to hope for the consummation of a nation-wide program of consolidation, such as was contemplated by the sponsors of the policy, would require an optimism wholly unjustified by any aspect of the existing situation.

## FEW APPLICATIONS IN ACCORDANCE WITH PLAN

While there is no record of the attitude of the railroads involved, it is of some significance that on November 1, 1930, there were pending before the commission only 15 applications for authorization of control, 3 of which were for mileage to be constructed, 2 involving the Great Northern Pacific case, and 1 by the Southern Pacific for the purchase of the stock of the St. Louis Southwestern, which was assigned by the commission to the Illinois Control system. The proposed 4-system plan, obviously, does not coincide with the plan of the commission for five systems.

Following is a statement of applications under paragraph 2, section 5, pending before the commission November 1, 1930:

*Applications pending November 1, 1930—Authorization of control of one carrier by another carrier under paragraph (2) of section 5 of the interstate commerce act*

Carrier acquiring control	Control proposed		
	Owning company	Miles of road	How to be acquired
Atlantic Coast Line R. R. Co.....	Charleston & Western Carolina Ry. Co.	340.89	Purchase of stock and lease.
Beaumont, Sour Lake & Western Ry. Co. and Atchison, Topeka & Santa Fe Ry. Co.	Sabine Basin Ry. Co.....	35.4	Do.
Denver & Rio Grande Western R. R. Co.	Denver & Salt Lake Ry. Co....	255.19	Purchase of stock.
Forth Worth & Denver City Ry. Co. and Chicago, Rock Island & Gulf Ry. Co.	Burlington-Rock Island R. R. Co.	66.6	Lease.
Great Northern Pacific Ry. Co.....	Spokane, Portland & Seattle Ry. Co.	554.6	Do.
Do.....	Northern Pacific Ry. Co. and Great Northern Ry. Co.	14,832.57	Purchase of stock and lease.
Missouri Pacific R. R. Co.	Subsidiary lines	3,350.47	Lease.
New Orleans, Texas & Mexico Ry. Co.	Rio Grande & Eagle Pass Ry. Co.	25.876	Purchase of capital stock.
Peoria Terminal Co.	Peoria, Hanna City & Western Ry. Co.	5.50	Purchase of stock and lease.
Pittsburgh & West Virginia Ry. Co....	Wheeling & Lake Erie Ry. Co....	479.60	Purchase of stock.
Do.....	Western Maryland Ry. Co....	660.62	Do.
Southern Pacific Co.	St. Louis Southwestern Ry. Co....	1,809.32	Do.
Do.....	Gulf & West Texas Ry. Co....	(1)	Do.
Texas & Pacific Ry. Co.....	Texas & Pacific Northern Ry. Co.	(1)	Do.
Western Pacific R. R. Co.....	Western Pacific California R. R. Co.	(1)	Do.

<sup>1</sup> No mileage constructed.

## HOLDING COMPANIES

## REPORT OF INTERSTATE COMMERCE COMMISSION

The most marked deficiency in the law relating to consolidations is the lack of any statutory authority in the Interstate Commerce Commission to regulate unifications of carriers accomplished through stock ownership or control by the so-called holding companies. Attention has been called to this by the commission for several years. Recently the situation has become acute, and in the 1929 report of the commission it is set forth as follows (pp. 79-83):

"In our last annual report we called attention to the acquisition by individuals or groups of individuals of control of railroads. We stated that this might seriously affect the maintenance of competition among carriers. Corporations organized as trading, investment, or holding companies appear also to be active in acquiring control of or substantial interests in various carriers. It seems clear that the acquisition of control or of an amount of stock sufficient to influence the policies of competing railroads, either by individuals or by other noncarrier corporations, may result in the suppression of competition in a manner no less harmful than if such control be exercised directly by one carrier over another.

"Section 5 of the interstate commerce act directs the commission to prepare and adopt a plan for the consolidation of the railroad properties of the continental United States into a limited number of systems which shall conform as closely as practicable to certain broad specifications which the Congress has laid down. After such plan has been adopted, the section provides that it shall be lawful for two or more carriers to 'consolidate their properties, or any part thereof, into one corporation for the own-



ership, management, and operation of the properties theretofore in separate ownership, management, and operation,' under certain conditions. One of these conditions is that the proposed consolidation must be in harmony with and in furtherance of the adopted plan, and another is that the commission shall find that the public interest will be promoted thereby. In another part of the same section it is provided that whenever the commission is of opinion that the acquisition by one carrier of the control of another or others in any manner not involving consolidation will be in the public interest, it shall have authority by order to approve and authorize such acquisition. The above is a statement of some of the salient features of this legislation. The essential point is that in this section of the interstate commerce act the Congress manifested a clear intent to subject the unification of carriers by railroad, one with another, to the orderly processes of a carefully planned scheme of public regulation.

"There are, however, means whereby unification of carriers can be brought about without consolidation into one corporation for ownership, management, and operation and without, strictly speaking, the acquisition of control of one carrier by another. To illustrate this, it developed in *Stock of Denver & Rio Grande Western Railroad* (70 I. C. C. 102) that the Western Pacific Railroad Corporation, a holding company which owned all of the stock of the Western Pacific Railroad Co., an operating carrier, was proposing to acquire all of the stock of the Denver & Rio Grande Western Railroad Co., another operating carrier, thus unifying these two carriers as effectually under common control as if one had directly acquired the stock of the other. We found, however, that the 'proposed acquisition of applicant's stock by the holding company does not constitute a consolidation of the property of two or more carriers by railroad subject to the act into one corporation for the ownership, management, and operation of properties theretofore in separate ownership, management, and operation within the meaning of paragraph (6) of section 5 of the act.' And we further found that 'inasmuch as the holding company is not a carrier engaged in the transportation of passengers or property subject to the act, the acquisition of control of the applicant by the holding company is not within the scope of paragraph (2) of section 5.'

"These, however, were carriers whose lines joined end to end and were in no sense parallel or competing lines. If competition had existed, the unification would probably have been subject to the prohibition of section 7 of the Clayton Antitrust Act, the first two paragraphs of which read as follows:

"That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition may be to substantially lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.

"No corporation shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of two or more corporations engaged in commerce where the effect of such

acquisition, or the use of such stock by the voting or granting of proxies or otherwise may be to substantially lessen competition between such corporations, or any of them, whose stock or other share capital is so acquired, or to restrain such commerce in any section or community, or tend to create a monopoly of any line of commerce.'

"Clearly the second paragraph above quoted is designed to prevent a corporation which is wholly or in part a holding company from acquiring stock of two or more corporations engaged in commerce, including railroad companies, where the effect of such acquisition may be, among other things to substantially lessen their competition with each other. Clearly, also, the first paragraph, because of the words 'directly or indirectly,' would cover the indirect acquisition by one railroad company of the stock of another through one or more subsidiary corporations.

"But a further means of unifying carriers through common control or affiliation has been developed which, in our opinion, merits most serious attention. This method also utilizes the mechanism of holding companies, but in a somewhat different way. It may be illustrated by relating our understanding as to the facts with respect to two important holding companies which have recently been created. One of these is the Alleghany Corporation and the other is the Pennroad Co. Whether or not our understanding as to the facts is in all respects correct we are unable to say, since we have no direct jurisdiction over either of these companies, but it will serve sufficiently well for purposes of illustration.

"Both of these companies, as we understand the situation, are purely holding companies. That is to say, the property which they own is not physical property, but consists solely of the stocks or securities of other companies. The Alleghany Corporation now owns various stocks of railroad companies. It is not controlled by any railroad company but is controlled, through a combination of direct and indirect means, by certain interests which control, through similar means, the New York, Chicago & St. Louis, the Erie, the Pere Marquette, and the Chesapeake & Ohio Railroad Cos. The Pennroad Co. also owns various stocks of railroad companies. It is not controlled by any railroad company as such, but its stock is held under a voting trust agreement, continuing until May 1, 1939, and the voting trustees are the president and two other directors of the Pennsylvania Railroad Co.

"If these facts are correct, the Alleghany Corporation can, by acquiring a controlling interest in the stock of a railroad company, bring it under common control with the railroad companies above mentioned which are controlled by the same interests as control the Alleghany Corporation, but without itself holding control of or being controlled by any one of these railroad companies as such. In a similar manner the Pennroad Co., by acquiring stock control of a railroad company, can bring it under common control with the Pennsylvania Railroad without itself controlling or being controlled by the latter carrier as such. In other words, common control can be effected in both instances by a chain, one vital link in which is made up of the control exercised, directly

or indirectly, over two or more corporations by individuals. The process may, of course, be facilitated by reducing the control of the holding company or of one or all of the carriers involved to a relatively small if not insignificant financial interest through various devices, such as limitation of the voting power of certain classes of stocks, the superimposing or pyramiding of one holding company on top of another, and the like.

"Where parallel or competing carriers are involved we are not prepared to say that a process of virtual unification so brought about is not amenable to the provisions of section 7 of the Clayton Antitrust Act. These provisions are couched in very broad language, and it will eventually be for the courts to determine how inclusive and effectual they are. Where no competition is involved, however, it is obvious that if our decision in *Stock of Denver & Rio Grande Western Railroad*, supra, was right, such unifications may be brought about without authority from or regulation of this commission. Certainly if common control of two railroad companies by a single holding company is neither a consolidation under section 5 (6) of the interstate commerce act nor an acquisition of control under section 5 (2), as we found in that case, the same conclusion may be reached as to common control brought about by utilizing a holding company in combination with powers of control possessed by certain individuals. Plainly, also, if this be the situation, the subjection of the unification of carriers by railroad to the orderly processes of a carefully planned scheme of public regulation, which section 5 was designed to accomplish, is very likely to be partially or even wholly defeated, subject to the possibility that the Clayton Antitrust Act may in some measure, after protracted litigation, enable control over the situation to be maintained.

"We call this matter to the attention of the Congress because we believe that it deserves thorough investigation and serious consideration. What the appropriate remedy may be we do not undertake for the present to say. Difficult legal, and perhaps constitutional, questions are involved, and to some extent the remedy must be shaped by the facts which thorough investigation may disclose. Attempts to regulate somewhat similar situations have been made in some of the States. For example, we understand that the New York Public Service Commission act, chapter 48 of the Consolidated Laws of New York, section 70, provides as follows:

"Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this chapter to give such consent, no stock corporation of any description, domestic or foreign, other than a gas corporation or electrical corporation or street railroad corporation, shall purchase or acquire, take or hold, more than 10 per cent of the total capital stock issued by any gas corporation or electric corporation organized or existing under or by virtue of the laws of this State \* \* \*"

"But such acquisitions are made valid if approved by the public service commission. Identical or similar provisions exist in other States. Other possible means of meeting the situation might be suggested. For the present, however, we are not prepared to go further than to call this problem, together with its

evident dangers, to the attention of the Congress accompanied by an expression of our conviction that it merits thorough consideration."

#### INVESTIGATION BY HOUSE COMMITTEE

A complete investigation and study of this problem is now being made by the Committee on Interstate and Foreign Commerce of the House, which, when completed, will be available to Congress, and it would be useless to present any superficial discussion of the subject here.

#### PRESENT PROPOSED LEGISLATION

As heretofore noted, there is at the present time before this committee for consideration S. 668, and H. R. 3208, differing from S. 668 in but a few respects, is before the House committee. The history of proposed legislation leading up to these two bills has been given pp. 29-38, *supra*).

The purposes of S. 668 are set forth in the report of this committee on S. 5817, which was introduced in the Seventieth Congress and favorably reported. (Rept. No. 1884, 70th Cong., 2d sess.) The provisions of S. 5817 were identical with those of S. 668 except that S. 5817 contained a provision in section 207 (2) for the condemnation by a petitioning carrier of the property of a carrier not joining in the petition whenever the petitioning carrier should report unreasonable terms were being insisted upon and the commission should determine that condemnation was in the public interest. This was inserted as a committee amendment and amendments were added to other sections to make them conform.

This provision was not in the House bill, and, as stated, is not included in S. 668. S. 5817 also contained a provision that no order of the commission approving a plan of unification should be entered prior to the completion of the plan or plans referred to in that section.

#### PURPOSES OF S. 668

The purposes of S. 668 as set forth in the report referred to are as follows:

"The main purposes of the bill are as follows:

"(1) To authorize voluntary railroad unifications, but only to the extent that they promote the public interest.

"(2) To set up definite and specific standards to be taken into consideration by the Interstate Commerce Commission in determining whether or not a proposed unification will promote the public interest.

"(3) To enable the carriers to carry into effect such a unification which has been approved by the commission by establishing a uniform and effective procedure.

"(4) To safeguard the interests of all who might be directly or substantially affected by such a unification, especially carriers that are not originally joined in the plan of unification.

"(5) To establish an efficient system of supervision by the commission in all cases of proposed unifications.

"(6) To provide adequate protection for all dissenting stockholders of the carriers who are parties to a proposed unification by establishing a procedure whereby they may receive just compensation for their stock.

"(7) To remove the defects of existing law which have prevented the promotion of the policy of voluntary unifications.

"(8) To relieve the commission of the duty of preparing a complete plan for the unification into a limited number of systems of all the railway properties in the continental United States and to substitute a provision directing the commission to make a study of transportation facilities and to prepare one or more tentative plans to be available for its use in passing upon petitions for unification.

"(9) To permit the commission under certain circumstances to authorize the acquisition by condemnation of a carrier which was not a party to the plan if the commission determines that it is in the public interest that such carrier be made a party to a unification.

"(10) To prohibit all unifications, including consolidations, mergers, acquisitions of properties, and acquisitions of securities, under State or Federal law, except as specifically provided in the bill.

"(11) To provide appropriate relief from State and Federal taxation in order to encourage and make possible unifications that will be in the public interest."

#### LITTLE DISPUTE AS TO SECTIONS ON PROCEDURE

If legislation dealing with consolidations or unifications is to be adopted or retained, there is practically no dispute as to the necessity, or at least the advisability, of adopting certain of the provisions of S. 668, or provisions similar in character. As to these sections there are some disputes as to exact language which were discussed in the hearings on S. 1175, but these disputes do not go to questions of policy. As stated, there is some difference between the Senate bill and the House bill which will be alluded to later.

Other provisions of the bill, dealing with matters of policy, may well be considered as more or less controversial.

In the first class of provisions as to which there is a little dispute would probably fall sections 201; to first clause of section 202 (2); 203, except for the difference between the House and Senate provisions; 204; 205, except for the difference between the Senate and House provisions; 206; 207 (3); 208 except for the difference between the House and Senate bills, 209; 210 (1), 210 (3), and 210 (4); 211; 212; 213; 214; 215; 216; 217.

#### DIFFERENCES BETWEEN SENATE AND HOUSE BILLS

The differences between the Senate and House bills are the following:

##### ACQUISITION OF STOCK NOT AMOUNTING TO CONTROL

(1) Under section 202 (2) of the Senate bill an order of the commission is not required for the acquisition by a carrier of stock of another carrier not amounting to a controlling interest except that such shares can not be voted on a question of unification without commission approval, nor to the acquisition of additional shares of stock of a carrier already under control, although both such acquisitions are subject to the ordinary provisions of State and Federal law. The House bill requires commission approval for the acqui-

tion of any securities except those of Class II or III carriers, and in the case of such carriers that securities acquired may not be voted until the commission has made an order of approval.

#### STATE LAWS AS TO CONSOLIDATIONS

(2) Under section 203 (2-c) of the Senate bill a consolidation may take place under authority of the commission without reference to State law. Under the House bill a consolidation as distinguished from a merger or acquisition of property or securities may be effected only under State law.

#### BONDS WITH VOTING POWER

(3) Under the Senate bill, section 208, while the holders of all voting securities are entitled to vote upon unification plans, such holders will be held to have consented to the plan if the majority of the votes of the stockholders are cast in favor of the adoption of the plan unless, in case of bonds with voting power, the trustee in the mortgage securing the bonds shall file a certificate showing that the holders of the majority of such bonds dissent from the plan. In that case the majority of the votes to which the holders of all voting securities are entitled is required. The House bill casts no burden upon the bondholders but requires in the first instance a majority of the votes to which the holders of all voting securities are entitled in order to register consent to a plan.

#### CONDEMNATION PROPERTIES NONASSENTING CARRIERS

(4) As has been noted, S. 5817 as reported contained a provision for condemnation of the property of nonassenting carriers. The House bill contained no such provision and S. 668 omits it.

#### PLAN

(5) The Senate bill provides for the preparation of a plan or plans by the commission to be used as a guide in passing upon petitions for unifications. This provision will be discussed more at length later. The House bill contains no such provision and repeals all the provisions of existing law relating to the preparation of a complete plan.

#### ACQUISITIONS UNDER PARAGRAPH 2, SECTION 5

(6) The Senate bill retains paragraph (2) of section 5, providing for acquisitions of control not amounting to consolidations, with slight amendments although it provides in section 215 that the commission may make it a condition of further consideration of an application under that section that further proceedings be in accordance with and the entry of any order subject to the provisions of the bill. The House bill leaves paragraph 2 in force only as to pending cases and provides that no application shall be made under that section after the bill becomes a law.

In view of the provisions of subparagraphs (a) and (d) of paragraph (2) of section 203 it is difficult to understand why paragraph (2) of section 5 should be carried forward as it merely appears to introduce complications in the way of procedure. If there is to be consolidation legislation, it would appear that the provisions of the House bill with reference to this section are more consistent with simplified procedure.



## SECTIONS DEALING WITH POLICIES

Eliminating from present consideration the sections above referred to, there are left the following sections, or portions, dealing with matters of policy rather than procedure: Section 202 (1), section 202 (2) after first clause, section 207 (1), section 207 (2), section 207 (4), section 210 (2), section 218.

## ACQUISITION OF STOCK NOT AMOUNTING TO CONTROL

As to section 202 (2) after first clause, this deals with the acquisition of stock in an amount not sufficient to constitute control, the acquisition of additional shares by a carrier having control of another, and the formation of subsidiary corporations; and the differences between the Senate and House views have been presented above. From a reading of the hearings there appeared to be little or no dispute as to the propriety of permitting the acquisition of additional stock of a carrier already under control, without approval of the commission. There was, however, considerable discussion as to the advisability of permitting the acquisition by a carrier of shares of stock of another carrier, not amounting to a controlling interest, without approval of the commission. A hearing dealing almost entirely with this provision was held by the House committee on December 4, 1928. (Hearing on H. R. 12620, 70th Cong., 2d sess., before Committee on Interstate and Foreign Commerce of the House.) The representatives of the railroads were inclined to the belief that there is a serious constitutional question as to the right of Congress to forbid the ownership of securities of one railroad by another, if such ownership amounts to less than control.

The practical argument was that it would be difficult to purchase stock in the open market at a reasonable price when public notice had been given of the intention to acquire it. On the other hand, it was argued that to permit the purchase of stock up the point of control without commission supervision and approval would create an indefinite situation, under which a large part of stock necessary for control might be purchased without approval, and the carrier then required to come in to ask approval of the purchase of only the small percentage necessary to complete control, or that the purchase of less than a majority of the outstanding stock might in fact result in actual control without having the matter having been referred to the commission at all. The answer to this was that no carrier would take the risk of effecting an illegal unification. A very clear picture of the opposing contentions is found in the examination of Mr. Thom by Congressman Denison and Congressman Mapes, pages 38-44, hearings H. R. 12620. There appears to have been no discussion of any length as to the provision permitting the formation of subsidiary corporations and the acquisition of their securities.

## CONDITIONS OF ACQUISITION NONJOINING CARRIERS

Section 207 (1) provides in substance that if after hearing the commission is of opinion that a proposed unification will promote the public interest in accordance with the provisions of section 202 (which will be discussed later), and that conditions precedent have been complied with, the commission *shall* enter an order approving the plan. Authority is given to approve the plan as set forth in the petition, or with such modifications or by such methods or upon such

terms and conditions, including conditions as to terminal facilities, as the commission may prescribe in the public interest. If the commission finds upon objection of a security holder of a party carrier that any terms and conditions of the plan are unfair or unreasonable, it may approve the plan upon such terms and conditions as it finds fair and reasonable.

Section 207 (2) provides in brief that if the commission has imposed as a condition of approval of a proposed unification that a carrier not joining in the petition (whether or not an intervenor) be made a party to the proposed unification, the petitioning carriers may report to the commission their efforts to comply with the condition, and if the commission is of the opinion that unreasonable terms are being asked, it may revoke or modify the condition, or if requested by the carrier to be brought in, may prescribe the terms on which it may be made a party.

As heretofore noted, the clause of the same section of S. 5817 providing for the authorization by the commission of condemnation proceedings has been omitted from S. 668.

It has been urged at the various hearings which have been held since 1924 that the protection of weak roads and short lines under a policy of voluntary consolidation would be insured by giving the commission authority to impose as a condition of the approval of any proposed consolidation that carriers not joining in filing the petition be made parties to the unification. The argument is that carriers desiring unification and being unable to secure it except upon the condition that they take in weak or short roads would do so rather than be denied approval of their plan. It was to relieve situations where the weak or short roads would demand unreasonable terms that the provisions of 207 (2) were included.

Although the commission as early as 1925 requested that they be given "specific authority to disapprove a consolidation or acquisition upon the ground that it does not include a carrier or all or any part of its property which ought to be included in the public interest and which it is possible to include upon reasonable terms" (excerpt from 1925 report, p. 33, *supra*), and although Commissioner Eastman directed specific attention to the failure to include a statement of such specific authority in S. 1870 (hearings, S. 1870, p. 56), neither in any of the subsequent bills nor in S. 668 is such authority given except through the granting of general power to attach terms and conditions, and by inference through the provisions of 207 (2). If such a condition is proper there appears no reason why the suggestion of the commission should not be followed.

A question was raised at the hearings on S. 1175 as to the use of the word "shall" in the first sentence of 207 (1), the suggestion being made by Senator Couzens that it be changed to "may." Mr. Thom, representing the railroads, stated that from the standpoint he was advocating he did not think it very important. (Hearings S. 1175, pp. 99-100.) However, the word was left "shall" in the reported bill and so appears in S. 668.

Assuming that section 207 does authorize the commission to include as a condition of a unification the inclusion of short or weak lines (and as suggested any doubt can be removed by including the language suggested by the commission), the question immediately arises as to the effectiveness of the section in view of paragraph (2). With a condemnation clause attached the nonpetitioning carrier could be

brought in regardless of its attitude. The objection to the condemnation clause is that it destroys the voluntary nature of the proceeding. Without it, however, there can certainly be no building up of systems according to any plan if there is a disagreement between the petitioning and nonpetitioning carriers as to the reasonableness of terms. All the commission can do, if the nonpetitioning carrier does not request it to prescribe the terms, is to recede from its position or stand by its original order and refuse approval. Whether it would do the latter if the original unification appeared proper and the commission felt that the carrier sought to be brought in was unreasonable, is a matter for conjecture. Whatever the final decision the statute would hardly be very effective in solving the weak-line problem.

Even with a condemnation clause included there would be no compulsion on the petitioning carriers to proceed to condemnation. Probably the section as introduced, with the amendments suggested, presents as effective a method as can be devised under a voluntary system. That it is of sufficient potency to make the consolidation act an effective remedy for the ills of the weak and short lines might be said to be at least very debatable.

#### ISSUE OF SECURITIES

Section 207 (4) makes the issue of securities subject to the provisions of section 20a, and is a substitute for section 5 (6b) of the interstate commerce act, limiting issues of securities to the value of the consolidated properties. This is included among the controversial provisions because of the change of policy.

#### CHANGE OF POLICY AS TO COMPETITION AND EXISTING ROUTES AND CHANNELS OF TRADE

Sections 202 (1), 210 (2), and 218 involve vital questions of policy and include the matters which have been subject of discussion for the past 10 years whenever the matter of consolidation has been under consideration.

In order to properly present the change of policy contemplated by S. 668, the salient provisions of section 5 (4) and 5 (6) of the interstate commerce act and those of section 202 (1) of S. 668 are presented in parallel columns.

#### TRANSPORTATION ACT

#### S. 668

Lawful for two or more carriers by railroad to consolidate properties, or part, into one corporation.

Consolidation must be in accordance with complete plan and approved by commission.

In division of railways in systems under plan—

Competition *shall be preserved* as fully as possible—

Wherever practicable existing routes and channels of trade shall be maintained.

Unification of carriers or their property through any method provided for by bill authorized—

in any case in which in opinion of commission unification will promote public interest.

In determining public interest—

Commission *shall give due consideration* to maintenance of competition between carriers and the prevention of any undue lessening of existing competition—

Subject to foregoing requirements—

Several systems shall be so arranged—

that cost of transportation as between competitive systems—

and as related to the values of the properties—

shall be the same, so far as practicable—

so that—

Systems can employ uniform rates in movement of competitive traffic and—

under efficient management earn substantially some return on value of respective railway properties.

the preservation and improvement of the service afforded by necessary weak or short lines—

the promotion of economy—

the affording of better service—

the securing of a simplified and more effective regulation of carriers—

the ultimate establishment of a number of strong and efficient systems—

well balanced within themselves—

and with other systems—

and to such other factors as may be in the public interest.

#### ELEMENTS OF ORIGINAL ACT OMITTED

In short, there have been omitted from the present proposed legislation three elements which were considered basic at the time of the passage of the original act.

There is no requirement that consolidations conform to a plan.

There is no specific requirement that in the division of railways into systems competition shall be preserved as fully as possible.

There is no requirement that existing trade routes and channels of trade be maintained; in fact, there is not even a reference to such maintenance.

In place of these requirements of the original law, which were in reality prerequisites, there is substituted the general test of the promotion of public interest, and the maintenance of competition is merely one element to be considered in determining public interest.

#### COMPETITION:

That there may be no misunderstanding as to the construction of section 202 (1) there is quoted from the report of the House committee on H. R. 12260 adopted as a part of the report of this committee on S. 5817, the statements as to competition. (Italics by writer.)

"Section 202 (1) authorizes a unification of carriers or of property of carriers, but only if the Interstate Commerce Commission is of opinion that the unification will promote the public interest. This paragraph requires the commission to give due consideration, among other matters, to the maintenance of competition between carriers and the prevention of any undue lessening of existing competition, the preservation and improvement of the service afforded by the necessary weak or short lines, the promotion of economy, the affording of better service, the securing of a simplified and more effective regulation of carriers, and the ultimate establishment of a number of strong and efficient systems well balanced within themselves and with other systems.

"The paragraph *does not require the commission to find that each of the above will result from a proposed unification.*

\* \* \* \* \*

"Furthermore, the paragraph merely requires that the commission shall give due consideration to the above factors. It does not mean that greater consideration should be given to any one of them than to any of the others. It means that a sound balancing of all the factors involved in any proposed unification will result in the opinion that the unification will promote the public interest.

\* \* \* \* \*

"Maintenance of competition.—The paragraph requires the commission to give due consideration to the maintenance of competition between carriers. It will be observed that *this does not require the maintenance of existing competition, but merely that there must be competition after a unification if there is competition before the unification.* It is obvious that competition between two strong carriers after a unification will prove much more effective than any existing competition between a strong and a weak carrier. Consequently, the public interest will be materially promoted if, in such case, the existing competition is replaced by effective competition between carriers of substantially the same strength.

"Undue lessening of existing competition.—Due consideration must also be given to the prevention of any undue lessening of existing competition. This provision does not mean that there can be no lessening of existing competition, and, obviously, the substitution of effective and substantial competition described above could not be accomplished without some elimination of the existing competition between the strong and weak carriers. It is only undue lessening that the commission must prevent. If the public interest unquestionably requires the lessening of existing competition, it is obvious that such lessening will not be "undue." Again, the primary purpose of competition among railroads is to promote efficiency, economy, and better service. Competition which required duplication and increases costs has a contrary effect and may well be eliminated.

"The real advantages to the public of substantial competition, it is believed, can be gained only through unification resulting in competitive systems of approximately equivalent earning power, financial strength, and efficiency. Such a result would in itself amply justify the enactment of the bill."

If the maintenance of existing competition should no longer be considered as a primary prerequisite, in dealing with the consolidation problem, the provisions of section 202 (1) are appropriate. The departure from the original policy announced by sponsors of the consolidation program, such as Senator Cummins and Senator Kellogg, is so radical, however, that if the new policy is to be adopted, there should be no misconception as to its import.

#### PLAN:

The matter of provision for a plan to be followed in the consideration of proposed unifications will be considered in the discussion of section 218.

#### MAINTENANCE OF EXISTING ROUTES:

The omission of any requirement as to the maintenance of existing routes and channels of trade is perhaps worthy of as much consideration as the change of policy as to competition.

An examination of Doctor Kidd's study and a reference to the extracts from that study presented here on the question of open and closed gateways discloses how important that feature is considered by students of the proposed Reading-Baltimore & Ohio unification. That example is only typical. In the résumé given earlier in this study of the debates in Congress and of testimony given at hearings the statement was constantly reiterated that there could be no competition in rates between carriers serving the same territory, but there could be competition in service, and that competition should by all means be preserved. The shipper located on a single railroad, or an entire producing territory served by only a single railroad, does not have parallel line competition, but does have connecting line competition, and the more optional routes available, the greater the competition and the better the service. Every time a through route is closed the public is deprived of an opportunity for better service.

Under the present statute the commission has felt authorized to impose as conditions to proposed unifications that routes of trade via existing gateways be kept open and efficiently maintained. (Acquisition of Buffalo, Rochester & Pittsburgh by Baltimore & Ohio, Finance Docket 7645. See also 90 I. C. C. 133.) Assuming the present authority of the commission to attach such conditions, what will be the situation if the requirement as to maintaining existing routes is repealed and no similar provision included in the new legislation? Will it not be claimed that it was the intention of Congress to have omitted in unification matters any consideration of the maintenance of through routes? It might be said that the words "such other factors as may be in the public interest" would include this factor, but its omission seems significant, especially in view of the fact that, at least as an element of public interest, it was included in the draft of the Railway Executives' Association, and in stronger terms in the original draft of S. 1175.

At the hearings on S. 1175 (p. 92) there was submitted by Mr. Thom a telegram from Judge Lovett as to the proposed omission of the provision in question as follows:

"Answering your telegram, I consider the repeal of existing law requiring the commission to preserve existing routes and channels of trade and commerce to be maintained wherever practicable would be very unwise. It would put new difficulties in the way of consolidations and unifications. It would open the door to numerous ambitious trade centers to seek concessions from carriers formulating plans or to intervene before the commission, prolonging proceedings and producing fights with other trade centers. Furthermore, it would afford opportunity, though possibly remote, for arousing partisanship among commissioners from different localities. \* \* \* But the lines I represent have no special interest in matter, and certainly I have none personally. My only purpose, personally, is to aid in perfecting the bill as far as possible and avoiding senseless and injurious mistakes. I believe you ought to emphasize as effectively as you can the objections above suggested, if you agree with them, and any others that occur to you, not in the interest of any particular line or locality but for the general welfare."

Following the reading of this telegram there ensued a discussion between Mr. Thom and members of the committee, and it would appear that the omission of the existing route clause had been intentional.



The possible consequences which might follow the repeal of this provision of existing law are so serious as to warrant the calling of special attention to its omission.

#### ANTITRUST LAWS

Section 210 (2) carries forward the provisions of section 5 (8) of the present act, relieving carriers affected by unification orders from the operation of the antitrust laws and other State or Federal restraints. The new section elaborates the present law, mentioning the officers, directors, etc., of the carriers involved; lifting the prohibition against interlocking directorates, and specifically referring to State constitutions as well as laws, and to decisions or orders of State authorities.

A discussion of this provision is unnecessary here. Its meaning is clear. The question for determination in connection with it is a question of governmental policy: whether the necessities of the situation are such as to require a continuance of this departure from an established policy of the nation. If so, the section is well drafted. If not, consideration must be given to the framing of a section which will express the extent to which Congress may desire to relax or modify the provisions of the antitrust and similar laws, if at all.

#### COMPLETE PLAN

As heretofore noted the House bill makes no provision for a complete plan. Sec. 218 of S. 668 reads:

"SEC. 218. The commission is directed to complete, as soon as practicable, a comprehensive study of the transportation facilities of the railroads in respect to the grouping thereof into systems, as provided in section 202, and therefrom to prepare and make public a plan or plans. Such plans shall be tentative only but shall be available for such assistance as the study may properly furnish to the commission in passing upon petitions filed under this title. If any such plan or any subdivision thereof, or any material accumulated in connection with such study, is used by the commission it shall, by reference or otherwise, be made a part of the record in the proceedings upon the petition. Action in respect to a petition under this title shall not be delayed or deferred pending the completion of such study and the preparation of the plan or plans."

This section is, of course, a compromise. Just what effect it may have is problematical. The report of the committee on S. 5817 states:

"This provision is intended to give the commission a working basis for its consideration of petitions and is in fact a substitute for the more rigid provisions of existing law."

In theory probably it would be expected that the commission would use this plan as a guide in the endeavor to eventually secure the accomplishment of what was termed by Mr. Albert H. Harris, chairman of the executive committee of the New York Central Lines, "the grouping of the railroads of the country, which was one of those dreams that appeal more to the imagination than to the common sense." (Hearings, H. R. 12620, p. 16.) Just how far the commission might consider this plan in the determination of public interest or whether they will be permitted to consider it at all is a

matter of conjecture. If they are permitted to consider it, it will practically take the place of the present provision, but without a definite statement in the law of its function. If they may not consider it, it is little more than a gesture.

#### PROVISIONS AS TO PROCEDURE MEET DEFECTS OF PRESENT LAW

S. 668 in so far as it covers matters of procedure, answers many of the objections which have been made to the present law on the basis of inadequacy, and the provisions as to procedure have been worked out over a period of six years. If any consolidation legislation is to be enacted, whatever position may be taken on questions of policy, the procedural provisions of S. 668, and other sections referred to as noncontroversial might well be adopted without material change.

#### NO PROVISIONS AS TO HOLDING COMPANIES OR PROTECTION OF EMPLOYEES

The bill omits to make any provision for the regulation of holding company operations, and wholly omits any provisions for the protection of the interests of labor.

#### VOLUNTARY SYSTEM

The legislation being intended to provide for a voluntary system of consolidation only, there are of course no provisions compelling the formation of systems such as were contemplated in the original act, and no compulsion, direct or indirect, except as may be provided by section 207, upon any strong carrier to acquire any short or weak line.

\* \* \* \* \*

From the study of the subject of railroad consolidations and unifications reported herein, I reach the following conclusions, which are respectfully submitted for consideration by the committee.

#### CONCLUSIONS

1. That there is a diversity of opinion as to the policy of railroad consolidations and as to the provisions of existing law and of proposed legislation dealing with that policy.
2. That the consolidation provisions of the transportation act were based upon the following propositions:
  - (a) That the same rates must be charged by all carriers in any given competitive territory for similar service.
  - (b) That average rates must be fixed, based on the average condition of all carriers in any given competitive territory, as a whole.
  - (c) That without equalization as between the carriers in such territory, average rates would result in inequalities of return, giving excessive rates to the strong and inadequate rates to the weak.
  - (d) That equalization between the carriers could be secured by combining strong and weak roads into systems, these systems to be of approximately equal strength so that average rates would produce a fair return and substantially the same rate of return on investment for each system.

(e) That this method would not only permit average rates without inequality of return, but would permit the weak roads, a necessary part of the transportation system of the country, to live.

(f) That such a program of equalization could be carried out by having the Interstate Commerce Commission prepare a plan by which all the carriers of the country should be grouped in a limited number of systems, and that after the preparation of such a plan the carriers would consolidate in accordance with it.

(g) That by the carrying out of this program the entire transportation system of the country would be strengthened.

3. That the sponsors and supporters of the consolidation provisions anticipated additional benefits from the program, such as economies of operation of the carriers, improved car service, better handling of traffic, lower and more scientific rates of transportation, more equitable adjustment of rates between commodities, simplified and improved rate regulation, adequate service for all communities and rehabilitation of the credit of railroads with more economical and convenient financing.

4. That it was the intention of Congress that existing competition (and not competition between the new systems) should be preserved as fully as possible and that the principal lines of the country should be maintained as separate competing organizations by which the weaker complementary lines would be taken in.

5. That the exemption from the provisions of the antitrust laws was not intended to reverse the national policy as to trusts and monopolies and facilitate consolidations by which monopolies would be created but only to facilitate consolidations necessary to realize the purpose of the act, involving minor violations of such laws.

6. That the consolidation legislation has not and can not accomplish its original purpose, for the following reasons:

(a) Equalization between carriers, so that average rates will produce substantially the same rate of return for each, by consolidation, can only be accomplished by grouping all carriers in any given competitive territory in systems.

(b) Such a grouping can only be made by formulating a plan, which must then be followed.

(c) Opinion is practically unanimous that the provision for such a plan is impracticable.

(d) A complete grouping will not be carried out under a voluntary system because the strong roads refuse to take over weak roads unless the transactions are commercially justifiable.

(e) A compulsory system can not be put into effect because one carrier can not be compelled to acquire another.

(f) In view of the position of the stronger roads as to the acquisition of unprofitable weak roads, and in the light of the history of the past 10 years, there exists no reasonable ground for belief that the weak road problem will be solved by a policy of consolidation.

7. That there is no definite evidence that consolidations will result in substantial economies.

8. That there is no substantial evidence that consolidations will produce any reduction of rates.

9. That a program of consolidation providing for the grouping of carriers into provisional systems under a complete plan with provisions for adjustment of income within each system on a recapture basis might assist the weak roads generally. That such a plan is objected to as amounting to compulsion, and is further subject to the same objections as the present recapture law and the present provision for a complete plan, and might be of doubtful constitutionality.

10. It is the opinion of many students of traffic problems that consolidations will result in certain benefits such as longer hauls on same system, cheaper financing, simplified accounting and reports, more flexibility in routing, avoidance of switching, longer full train hauls, opportunity to purchase on larger scale, standardization of equipment, lessened number of repair shops, more cars "at home" on system, and less labor. There is no strong contention that such benefits will result in any substantial financial economies.

11. That the greatest benefits of consolidations now contemplated will accrue to lines already strong, who are seeking largely to acquire other strong lines and thus build up their systems, rather than to take in weak lines.

12. That such a program of consolidation may tend to further weaken weak lines through closing of through routes and withdrawal of traffic.

13. That labor will probably suffer from such consolidations as are now sought, unless some protection is afforded employees.

14. That the limitation of open gateways and the possible closing of through routes after consolidations may deprive shippers of the benefits of competition in service.

15. That there is no particular objection to unifications such as were effected prior to the passage of the transportation act, subject to the antitrust laws, and with no substantial reduction of competition or substantial closing of routes and channels of trade.

16. That there is substantial opposition to consolidations which violate the antitrust acts, raising a question whether the exemption of consolidations from the antitrust laws should be continued.

17. That such opposition would probably not extend to acquisitions of short and weak lines.

18. That if consolidation legislation is to be continued, provision should be made for the protection of employees and for the regulation of holding companies.

19. That if consolidation legislation is to be continued, additional legislation and amendments as to procedure, of the character set out in S. 668, should be adopted.

20. That it does not appear in the public interest that the provisions of existing law as to the maintenance of routes and channels of trade and the preservation of existing competition should be repealed or weakened.

21. That a study of the records, hearings, and experience of the past 10 years does not disclose a situation requiring in the public interest further encouragement of a comprehensive program of consolidation as contemplated by the transportation act.

22. That regulatory legislation should be continued or enacted giving the Interstate Commerce Commission full control of permissible unifications.

## Rate of return, Class I steam railways, years 1921-1929, inclusive

For the years 1921 and 1922 the rate of return is based on investment in road and equipment (book value), including data for lessor companies. For 1923-1929, inclusive, investment in road and equipment (book value), cash, and materials and supplies were used, data from reports of lessor and proprietary companies being included.

Name of road	Dec. 31, 1921	Dec. 31, 1922	Dec. 31, 1923	Dec. 31, 1924	Dec. 31, 1925	Dec. 31, 1926	Dec. 31, 1927	Dec. 31, 1928	Dec. 31, 1929
Akron, Canton & Youngstown Ry. Co. <sup>1</sup>	3.83	3.98	4.4	5.2	5.1	3.4	4.67	5.49	7.47
Alabama Great Northern Ry. Co. <sup>2</sup>	3.82	4.20	6.7	7.8	7.6			6.97	6.60
Ann Arbor R. R. Co.	2.55	2.24	2.3	3.2	4.2	8.0	7.38	3.91	4.24
Arizona Eastern R. R. Co. <sup>3</sup>	(*)	3.52	4.1	4.3	5.0	5.9	4.74	4.80	5.08
Atchafalaya, Topeka & Santa Fe Ry. Co.	2.66	4.89	6.9	6.4	(*)	(*)	(*)	(*)	(*)
Atlanta & West Point R. R. Co.	(*)	4.66	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Atlantic City R. R. Co. <sup>4</sup>	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Atlantic Coast Line R. R. Co.	96	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Baltimore & Ohio R. R. Co.	2.43	6.86	6.3	6.0	7.4	6.2	3.43	3.30	4.25
Baltimore, Chesapeake & Atlantic Ry. Co. <sup>5</sup>	3.11	3.31	(*)	4.6	5.1	5.8	4.72	5.36	5.20
Bangor & Aroostook R. R. Co.	1.70	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Beaumont, Sour Lake & Western Ry. Co.	1.36	7.37	5.1	3.2	3.1	5.3	(*)	1.15	2.46
Birmingham & Nashville Ry. Co.	3.94	8.29	10.4	4.3	7.9	9.4	5.57	7.88	11.28
Birmingham & Gulfport Ry. Co.	(*)	(*)	2.2	1.7	2.3	3.9	3.01	2.87	3.20
Boston & Maine R. R.	(*)	2.81	1.2	3.5	4.9	5.0	3.68	4.82	4.62
Buffalo & Susquehanna R. R. Corp.	.67	2.38	4.8	2.3	1.0	4.4	1.39	2.73	2.91
Buffalo, Rochester & Pittsburgh Ry. Co.	1.09	.79	4.0	3.5	(*)	(*)	2.86	3.75	3.90
Canadian Pacific Lines in Vermont <sup>6</sup>	1.58	.28	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Central R. R. of New Jersey	4.62	2.62	3.5	5.7	3.6	5.3	4.79	4.18	4.21
Central Vermont Ry. Co.	1.97	5.54	4.6	5.0	5.6	5.7	5.13	4.00	4.99
Chesapeake & Ohio Ry. Co.	(*)	1.67	1.1	2.1	2.4	4.3	.53	4.02	5.55
Chicago & Eastern Illinois Ry. Co. <sup>7</sup>	4.55	5.51	4.1	5.1	7.4	5.2	4.21	4.89	3.10
Chicago & Eastern Illinois Ry. Co. <sup>8</sup>	2.39	1.06	3.5	2.8	2.9	2.5	1.63	1.72	2.04
Chicago & Erie R. R. Co.	2.58	3.41	3.8	1.7	2.5	3.0	2.62	2.53	2.54
Chicago & Illinois Midland Ry. Co. <sup>9</sup>	(*)	(*)	1.1	3.4	5.0	4.4	(*)	4.62	6.40
Chicago & North Western Ry. Co.	1.46	3.72	3.0	3.2	4.0	4.2	3.66	5.26	5.28
Chicago, Burlington & Quincy R. R. Co.	5.65	4.70	4.3	4.6	4.0	4.2	3.66	4.14	4.38
Chicago, Detroit & Canada Grand Trunk Junction R. R. Co. <sup>10</sup>	6.19	18.16	11.2	1.3	25.3	25.4	25.08	3.33	5.59
Chicago, Indianapolis & Louisville Ry. Co.	2.93	4.09	4.9	4.4	5.6	5.7	5.35	5.04	4.77
Chicago, Milwaukee & St. Paul R. R. Co. <sup>11</sup>	(*)	1.90	2.7	2.6	2.2	2.4	1.85	3.95	3.48
Chicago, Peoria & St. Louis R. R. Co. <sup>12</sup>	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)
Chicago, Rock Island & Gulf Ry. Co.	6.71	3.83	3.7	7.6	6.2	8.8	6.30	7.31	10.97

Chicago, Rock Island & Pacific Ry. Co.	4.29	3.85	3.6	4.1	4.1	4.9	5.07	5.14	4.84
Chicago, St. P., P. & O. Ry. Co.	(*)	4.39	3.8	3.7	3.5	3.4	2.86	1.94	3.10
Chicago, Terre Haute & Eastern Ry. Co.	(*)	.36	1.7	1.8	1.8	(*)			
Cincinnati, Indianapolis & Western Ry. Co. <sup>13</sup>	3.68	3.56	7.9	8.8	11.3	8.5	6.89	6.82	5.15
Cincinnati, Lebanon & Northern Ry. Co. <sup>14</sup>	13.59	5.75	10.2	10.2	10.6	10.0	8.00	6.57	5.65
Cincinnati, New Orleans & Texas Pacific Ry. Co.	3.69	4.39	6.2	5.0	6.2	6.0	4.49	4.78	4.73
Cincinnati Northern R. R. Co.	2.27	1.23	1.9	3.0	1.8	2.0	4.39	4.03	3.71
Cincinnati & Hamilton Ry. Co.	2.64	7.70	(*)	1.0	2.4	16.2	1.32	2.13	1.91
Colorado & Southern Ry. Co. <sup>15</sup>	26.84	1.06	5.1	5.8	5.3	7.4	5.08	5.82	7.15
Columbus & Greenville Ry. Co. <sup>16</sup>	6.27	2.95	5.5	6.2	5.5	6.9	5.96	5.82	6.17
Cumberland Valley & Martinsburg R. R. Co. <sup>17</sup>	1.83	2.97	1.6	1.4	3.3	3.6	2.97	3.22	3.78
Delaware, Lackawanna & Western R. R. Co.	1.25	1.35	1.8	3.8	3.0	3.0	3.70	3.40	3.66
Detroit & Mackinaw Ry. Co.	1.00	.64	1.8	3.8	3.0	3.0	1.95	4.19	2.95
Detroit & Toledo Shore Line R. R. Co.	6.18	13.33	8.5	4.1	6.9	11.1	9.32	1.73	7.48
Detroit, Grand Haven & Milwaukee Ry. Co. <sup>18</sup>	(*)	6.53	7.3	3.1	11.1	14.7	9.32	5.03	9.01
Duluth & Iron Range R. R. Co.	.17	(*)	5.8	6.9	8.3	4.6	1.38	5.47	7.18
Duluth, South Shore & Northern Ry. Co.	7.86	13.94	21.2	7.5	15.9	16.1	12.05	15.79	21.54
Duluth, Winnipeg & Pacific Ry. Co.	(*)	18.18	1.5	1.3	1.6	.6	1.01	1.64	.82
El Paso & Southwestern Co. <sup>19</sup>	(*)	3.02	3.0	1.8	1.6	.6	2.12	1.87	1.58
Elgin, Joliet & Eastern Ry. Co.	1.97	7.12	9.5	5.6	6.9	9.7	7.21	6.55	9.6
Erie R. R. Co.	.34	.82	3.9	3.3	3.3	3.4	2.46	3.66	3.76
Florida Gulf Coast Ry. Co.	2.01	4.71	4.2	2.2	3.0	7.9	4.78	(*)	3.16
Fort Smith & Western Ry. Co. <sup>20</sup>	(*)	1.36	4.9	3.4	5.4	4.1	.48	1.15	1.33
Fort Worth & Denver City Ry. Co.	12.12	8.02	8.6	10.6	9.8	12.6	8.49	9.90	1.62
Galveston, Harrisburg & San Antonio Ry. Co. <sup>21</sup>	(*)	2.47	(*)	(*)	(*)	(*)	(*)	8.28	7.83
Georgia & Florida R. R.	1.87	2.47	2.6	5.7	3.6	2.9	(*)	(*)	(*)
Georgia R. R., lessee organization	(*)	6.89	1.4	1.2	1.5	1.8	1.16	5.33	5.41
Grand Rapids & Indiana Ry. Co.	(*)	3.68	4.0	6.3	8.9	6.0	6.28	2.57	2.52
Grand Trunk Western R. R. Co. <sup>22</sup>	(*)	1.54	3.9	9.9	3.9	5.9	6.66	6.17	5.31
Great Northern Ry. Co.	2.99	3.88	4.9	4.8	5.5	5.9	5.06	6.17	5.31
Green Bay & Western R. R. Co.	1.84	1.51	1.1	1.7	2.3	2.1	1.89	(*)	2.88
Gulf & Ship Island R. R. Co.	10.69	7.75	3.2	3.4	1.7	(*)	(*)	(*)	(*)
Gulf, Mobile & Santa Fe Ry. Co.	3.38	2.98	3.9	9.1	7.5	8.9	7.98	6.94	7.72
Hooking Valley Ry. Co.	2.86	4.09	4.1	5.2	4.0	4.6	3.58	3.60	4.00
Houston & Texas Central R. R. Co. <sup>23</sup>	3.18	2.46	4.3	5.2	3.0	4.6	8.17	9.07	9.44
Houston East & West Texas Ry. Co. <sup>24</sup>	2.56	2.37	1.6	1.7	7.0	8.1	4.26	4.13	3.85
Illinois Central R. R. Co.	6.27	6.19	4.6	4.5	4.6	4.5	4.26	4.30	3.69
Illinois Terminal Co. <sup>25</sup>	(*)	3.24	4.5	3.2	4.4	4.5	3.71	13.60	3.18
Indiana Great Northern R. R. Co. <sup>26</sup>	2.61	(*)	.2	(*)	.8	.8	.68	10.59	
Kansas City, Mexico & Orient Ry. Co. <sup>27</sup>	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)	(*)

Footnotes at end of table.



## Rate of return, Class I steam railways, years 1921-1929, inclusive—Continued

Name of road	Dec. 31, 1921	Dec. 31, 1922	Dec. 31, 1923	Dec. 31, 1924	Dec. 31, 1925	Dec. 31, 1926	Dec. 31, 1927	Dec. 31, 1928	Dec. 31, 1929
Kansas City, Mexico & Orient Ry. Co. of Texas <sup>27</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Kansas City Southern Ry. Co.	4.29	3.26	2.89	2.4	2.4	2.7	3.33	23.08	3.70
Kansas, Oklahoma & Gulf Ry. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Lake Erie & Western R. R. Co. <sup>28</sup>	5.91	8.29	7.7	3.1	7.5	8.8	7.81	8.76	14.09
Lake Superior & Ishpeming R. R. Co. <sup>29</sup>	5.60	4.52	6.8	5.8	5.2	5.1	7.36	6.78	5.57
Lake & Hudson River Ry. Co.	2.79	2.6	2.7	4.6	5.2	5.2	3.74	4.56	4.79
Louisiana Valley R. R. Co.	3.57	5.33	3.6	1.8	2.2	4.9	4.62	5.57	6.23
Long Island R. R. Co.	2.78	1.50	5.8	4.1	5.6	2.4	1.81	1.76	3.89
Los Angeles & Salt Lake R. R. Co.	2.78	5.40	5.8	4.1	5.6	2.4	1.81	1.76	3.89
Louisiana & Arkansas Ry. Co.	5.22	8.47	8.9	8.0	1.1	(1)	(1)	(1)	(1)
Louisiana Ry. & Navigation Co. <sup>31</sup>	1.21	5.07	2.1	5.2	6.1	5.0	5.05	4.07	4.13
Louisiana W. & N. R. R. Co. <sup>32</sup>	3.36	6.07	3.0	3.4	4.5	5.0	6.27	3.24	5.18
Louisville & Nashville R. R. Co.	10.14	11.54	10.3	9.3	11.0	10.6	8.09	8.44	9.96
Maine Central R. R. Co.	4.65	5.50	5.3	5.3	5.4	5.8	4.39	4.06	3.70
Maryland, Delaware & Virginia Ry. Co. <sup>34</sup>	4.42	3.43	1.2	(1)	5.5	3.3	3.67	3.92	3.68
Midland Valley R. R. Co. <sup>35</sup>	(1)	3.45	3.8	3.0	5.0	4.1	3.97	4.10	2.95
Minneapolis, St. Paul & Sault Ste. Marie Ry. Co.	(1)	2.26	2.7	1.5	(1)	(1)	(1)	(1)	(1)
Mississippi Central R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Missouri & North Arkansas Ry. Co. <sup>36</sup>	3.40	4.04	3.7	4.3	4.9	4.4	4.32	4.86	5.29
Missouri-Illinois R. R. Co. <sup>37</sup>	3.41	2.03	1.7	4.9	3.2	4.5	2.94	2.07	1.49
Missouri-Kansas-Texas R. R. Co. <sup>38</sup>	2.70	2.14	2.1	3.6	3.9	4.2	3.57	4.13	3.87
Missouri Pacific R. R. Co.	2.42	5.81	5.2	4.6	7.9	8.5	8.27	4.93	3.57
Mobile & Ohio R. R. Co.	4.75	4.18	10.0	6.8	2.5	3.5	8.26	6.75	7.09
Monongahela Ry. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Montour R. R. Co.	1.73	4.93	4.3	9.3	7.0	6.9	6.53	7.19	7.97
Morgan's Louisiana & Texas R. R. & Steamship Co. <sup>39</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Nashville, Chattanooga & St. Louis Ry.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Nevada Northern R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
New York Central R. R. Co.	6.98	7.38	6.0	7.0	7.1	6.6	6.50	6.99	4.27
New Orleans & Northeastern R. R. Co.	5.86	4.76	5.8	4.9	6.1	4.9	1.42	4.43	4.79
New Orleans, Texas & Mexico Ry. Co.	5.85	5.61	4.8	4.8	5.2	5.2	4.35	4.23	4.30
New York Central R. R. Co.	4.56	4.13	5.2	4.5	4.4	4.4	4.00	4.20	4.36
New York, Chicago & St. Louis R. R. Co.	1.19	3.16	3.3	4.8	5.6	5.5	4.31	3.73	7.31
New York Connecting R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
New York, Ontario & Western Ry. Co.	1.48	.39	1.0	1.7	1.1	1.8	1.08	6.93	7.80
New York, Philadelphia & Norfolk R. R. Co. <sup>40</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
New York, Susquehanna & Western R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

Norfolk & Western Ry. Co.	4.65	5.64	5.6	5.9	7.8	9.7	7.70	7.68	9.77
Norfolk Southern R. R. Co.	2.20	3.15	3.6	4.8	6.0	4.9	4.93	3.95	3.31
Northwestern Pacific R. R. Co.	2.05	2.30	2.0	3.4	3.7	4.0	3.67	4.03	3.40
Oregon Short Line R. R. Co.	4.55	7.42	4.4	3.9	4.6	4.9	4.73	5.81	5.82
Oregon-Washington R. R. & Navigation Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Panhandle & Santa Fe Ry. Co.	7.76	8.4	6.6	6.7	8.4	10.8	6.35	5.36	6.10
Pennsylvania R. R. Co.	2.59	5.17	5.0	4.9	6.0	6.3	4.52	4.34	5.45
Pere Marquette Ry. Co.	4.62	5.17	5.0	4.9	6.0	6.3	4.52	4.34	5.45
Pennsylvania R. R. Co.	13.13	13.06	8.5	8.9	12.4	11.9	7.43	7.87	5.81
Pittsburgh & Shawmut R. R. Co.	4.71	6.02	13.7	7.1	7.3	7.4	6.24	5.99	6.41
Pittsburgh, Cincinnati, Chicago & St. Louis R. R. Co. <sup>41</sup>	1.52	2.08	1.8	1.4	2.4	3.5	3.21	3.74	2.57
Pittsburgh, Shawmut & Northern R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Port Reading R. R. Co. <sup>42</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Reading, Maun & Kansas City R. R. Co.	2.90	2.24	5.2	3.1	5.2	7.2	2.49	1.99	.05
Reading R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Richmond, Fredericksburg & Potomac R. R. Co.	4.85	6.48	9.2	5.3	5.5	5.8	4.36	4.34	4.02
Rutland R. R. Co.	5.62	10.72	10.2	9.0	10.9	8.2	5.62	5.89	7.03
St. Joseph & Grand Island Ry. Co.	1.74	2.37	3.3	2.9	2.8	3.4	1.53	3.29	3.41
St. Louis, Brownsville & Mexico Ry. Co.	6.13	6.97	11.9	12.3	10.1	12.5	2.54	3.89	3.82
St. Louis-San Francisco Ry. Co.	4.76	4.08	4.5	4.9	5.2	5.4	4.22	4.21	6.68
St. Louis-Southwestern Ry. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
St. Louis Southwestern Ry. Co. of Texas	7.32	7.37	7.3	6.2	8.2	4.7	1.11	2.16	2.66
San Antonio & Aransas Pass Ry. Co. <sup>43</sup>	1.29	1.02	3.1	1.3	1.4	1.1	1.22	4.78	5.42
San Antonio, Uvalde & Gulf R. R. Co.	1.23	.13	2.0	2.3	2.7	3.5	1.44	2.48	.37
San Diego & Arizona Ry. Co. <sup>44</sup>	1.06	2.13	3.7	4.1	4.5	4.5	3.57	1.54	1.78
Seaboard Air Line Ry. Co.	3.97	4.73	5.1	3.5	3.9	4.0	3.71	3.76	3.99
Southern Pacific Co.	2.74	3.98	5.0	5.3	5.9	5.8	5.26	4.99	4.71
Spokane International Ry. Co.	2.85	4.33	2.2	1.6	4.0	4.6	3.84	3.71	3.71
Staten Island Rapid Transit Ry. Co.	2.72	2.67	3.0	3.2	2.7	3.5	3.72	3.48	3.35
Tennessee Central Ry. Co. <sup>45</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Texas & New Orleans R. R. Co.	9.90	9.99	16.3	15.4	6.6	7.4	2.30	2.68	3.49
Texas & New Orleans R. R. Co.	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Texas Mexican Ry. Co. <sup>46</sup>	2.25	2.84	3.7	4.0	3.9	4.0	2.22	2.88	3.53
Toledo & Ohio Central Ry. Co. <sup>47</sup>	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Toledo, Peoria & Western R. R. Co. <sup>48</sup>	3.53	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Trinity & Brazos Valley Ry. Co.	3.21	4.16	3.2	(1)	(1)	(1)	4.94	15.39	15.54
Union Pacific R. R. Co.	3.69	(1)	2.3	(1)	(1)	(1)	1.14	1.59	(1)
Utah Ry. Co.	7.88	7.14	7.0	6.5	6.7	6.1	6.43	7.12	5.1
Vicksburg, Shreveport & Pacific Ry. Co. <sup>49</sup>	(1)	3.08	2.3	3.3	4.8	3.9	4.44	3.39	5.68
Virginian Ry. Co.	4.72	3.72	4.0	4.0	5.0	4.3	6.01	4.63	5.68

Footnotes at end of table

## Rate of return, Class I steam railways, years 1921-1929, inclusive—Continued

Name of road	Dec. 31, 1921	Dec. 31, 1922	Dec. 31, 1923	Dec. 31, 1924	Dec. 31, 1925	Dec. 31, 1926	Dec. 31, 1927	Dec. 31, 1928	Dec. 31, 1929
Wabash Ry. Co.	1.73	1.82	3.7	3.7	4.7	4.5	3.37	4.11	4.39
West Jersey & Seashore R. R. Co.	.99	4.37	3.2	2.7	3.8	3.6	1.74	3.97	3.68
Western Maryland Ry. Co.	2.21	2.22	3.2	2.5	3.3	3.6	1.88	2.04	1.94
Western Pacific R. R. Co.	3.37	1.56	2.4	8.3	9.7	7.0	6.10	6.88	4.29
Western Ry. of Alabama	3.37	7.56	6.4	8.3	9.7	7.0	6.10	6.88	4.29
Wheeling Lake Erie Ry. Co.	2.06	.46	3.1	2.7	4.8	4.8	3.35	5.42	5.37
Wichita Falls & Northwestern Ry. Co. <sup>a</sup>	6.50	( <sup>b</sup> )							
Wichita Valley Ry. Co.	7.51	4.37	6.1	9.0	7.6	7.1	7.60	5.83	4.52
Yazoo & Mississippi Valley R. R. Co.	1.18	2.53	2.6	5.7	6.2	4.1	1.62	3.23	3.32

<sup>a</sup> Class II road reclassified as Class I Jan. 1, 1922.

<sup>b</sup> Leased to Yazoo & Mississippi Valley R. R. Co. June 2, 1926.

<sup>c</sup> Leased to Southern Pacific Co. Nov. 8, 1924.

<sup>d</sup> Represents return for Atlanta, Birmingham & Atlantic Ry. Co. to Dec. 31, 1926, and its successor, the Atlanta, Birmingham & Coast R. R. Co. subsequent thereto.

<sup>e</sup> Deficit.

<sup>f</sup> Property sold to Baltimore & Eastern R. R. Co. a Class II road, Nov. 30, 1928.

<sup>g</sup> Class I road reclassified as Class II Jan. 1, 1927, through lease of Newport & Richford R. R. Co. and a portion (68.80 miles) of Connecticut & Passumpsic Rivers R. R. Co.

<sup>h</sup> Merged in New York, New Haven & Hartford R. R. Co. Jan. 1, 1927.

<sup>i</sup> Represents return for Chicago & Eastern Illinois R. R. Co. to Dec. 31, 1921, and its successor, the Chicago & Eastern Illinois Ry. Co. subsequent thereto.

<sup>j</sup> Class II road reclassified as Class I Jan. 1, 1926.

<sup>k</sup> Consolidated with Grand Trunk Western Ry. Co., Detroit, Grand Haven & Milwaukee Ry. Co., and other smaller carriers, forming Grand Trunk Western R. R. Co., as of Jan. 1, 1924, for accounting purposes.

<sup>l</sup> Represents return for Chicago & St. Paul Ry. Co. to Jan. 13, 1928, and its successor, the Chicago, Milwaukee, St. Paul & Pacific R. R. Co., subsequent thereto.

<sup>m</sup> Leased to Chicago, Milwaukee & St. Paul Ry. Co., now Chicago, Milwaukee, St. Paul & Pacific R. R. Co., July 1, 1921.

<sup>n</sup> Leased to Baltimore & Ohio R. R. Co., Jan. 1, 1927.

<sup>o</sup> Leased to Pennsylvania R. R. Co., Jan. 1, 1922.

<sup>p</sup> Surrendered Carolina, Clinchfield & Ohio Ry. Co., as lessee from Jan. 1, 1925.

<sup>q</sup> Represents return for Columbus & Greenville R. R. Co. to Aug. 6, 1924, and its successor the Columbus & Greenville Ry. Co. subsequent thereto.

<sup>r</sup> Less than 0.1 per cent.

<sup>s</sup> Represents return for Pennsylvania R. R. Co., Jan. 1, 1922.

<sup>t</sup> Represents return for Denver & Rio Grande R. R. Co. to July 31, 1921, and its successor the Denver & Rio Grande Western R. R. Co. subsequent thereto.

<sup>u</sup> Represents return for Denver & Salt Lake R. R. Co. to Dec. 31, 1926, and its successor the Denver & Salt Lake Ry. Co. subsequent thereto.

<sup>v</sup> Consolidated with Chicago, Detroit & Canada Grand Junction R. R. Co., Grand Trunk Western Ry. Co., and other smaller carriers, forming Grand Trunk Western R. R. Co., as of Jan. 1, 1929, for accounting purposes.

<sup>w</sup> Leased to Southern Pacific Co., Nov. 1, 1924.

<sup>x</sup> Class II road reclassified as Class I Jan. 1, 1923.

<sup>y</sup> Represents return for Fort Smith & Western R. R. Co. to Jan. 16, 1923, and its successor the Fort Smith & Western Ry. Co. subsequent thereto.

<sup>z</sup> Leased to Texas & New Orleans R. R. Co., Mar. 1, 1927.

<sup>aa</sup> Represents return for Georgia & Florida Ry. to Dec. 31, 1926, and its successor the Georgia & Florida R. R. Co. subsequent thereto.

<sup>ab</sup> Leased to Pennsylvania R. R. Co., Jan. 1, 1922.

<sup>ac</sup> Represents return for Grand Trunk Western Ry. Co. to Dec. 31, 1926, and Grand Trunk Western R. R. Co. subsequent thereto. The latter company was created through the consolidation of the Grand Trunk Western Ry. Co., Chicago, Detroit & Canada Grand Trunk Jct. R. R. Co., Detroit, Grand Haven & Milwaukee Ry. Co., and other small carriers.

<sup>ad</sup> Represents return for Houston & Texas Central Ry. Co. to Dec. 31, 1921, and its successor, the Houston & Texas Central R. R. Co., subsequent thereto. Property based to Texas & New Orleans R. R. Co. Mar. 1, 1927.

<sup>ae</sup> Leased to Texas & New Orleans R. R. Co., Mar. 1, 1927.

<sup>af</sup> Class II road reclassified as Class I, effective Jan. 1, 1928.

<sup>ag</sup> Represents return for International & Great Northern Ry. Co. to Dec. 31, 1921, and its successor, the International-Great Northern R. R. Co., subsequent thereto.

<sup>ah</sup> Leased to New York Central R. R. Co., Jan. 1, 1922.

<sup>ai</sup> Represents return for Kansas City, Mexico & Orient Ry. Co. to Mar. 31, 1925, and its successor, the Kansas City, Mexico & Orient Ry. Co., subsequent thereto. Property leased to Atchison, Topeka & Santa Fe Ry. Co., Aug. 1, 1929.

<sup>aj</sup> Leased to Parhandle & Santa Fe Ry. Co., Aug. 1, 1929.

<sup>ak</sup> Less than 0.1 per cent.

<sup>al</sup> Represents return for Chicago & St. Louis R. R. Co., Jan. 1, 1922.

<sup>am</sup> Represents return for Lake Superior & Ishpeming Ry. Co. to Dec. 31, 1923, and its successor, the Lake Superior & Ishpeming R. R. Co., subsequent thereto.

<sup>an</sup> Leased to Louisiana & Arkansas Ry. Co., Jan. 1, 1929.

<sup>ao</sup> Commenced operations as a Class I road, Apr. 1, 1923.

<sup>ap</sup> Leased to Louisville & Nashville R. R. Co., June 1, 1923.

<sup>aq</sup> Reclassified as a Class II road, effective Jan. 1, 1924.

<sup>ar</sup> Represents return for Missouri & North Arkansas R. R. Co., to Apr. 1, 1922, and its successor, the Missouri & North Arkansas Ry. Co., subsequent thereto.

<sup>as</sup> Class II road reclassified as Class I, effective Jan. 1, 1926.

<sup>at</sup> Represents return for Missouri, Kansas & Texas Ry. Co. to Mar. 31, 1923, and its successor, the Missouri-Kansas-Texas R. R. Co., subsequent thereto.

<sup>au</sup> Leased to Pennsylvania R. R. Co., Jan. 1, 1922.

<sup>av</sup> Less than 0.1 per cent.

<sup>aw</sup> Represents return for Reading Co., Jan. 1, 1929.

<sup>ax</sup> Represents return for Philadelphia & Reading Ry. Co. to Dec. 31, 1923, and its successor the Reading Co. subsequent thereto.

<sup>ay</sup> Leased to Chicago & St. Louis R. R. Co., May 1, 1925, and to Texas & New Orleans R. R. Co., Mar. 1, 1927.

<sup>az</sup> Class II road reclassified as Class I, Jan. 1, 1927.

<sup>ba</sup> Represents return for Tennessee Central R. R. Co. to Jan. 31, 1922, and its successor the Tennessee Central Ry. Co. subsequent thereto.

<sup>bb</sup> Leased to New York Central R. R. Co., Jan. 1, 1927.

<sup>bc</sup> Represents return for Toledo, Peoria & Western Ry. Co. to Mar. 31, 1927, and its successor the Toledo, Peoria & Western R. R. Co. subsequent thereto.

<sup>bd</sup> Merged in New York, Chicago & St. Louis R. R. Co., Jan. 1, 1923.

<sup>be</sup> Leased to Yazoo & Mississippi Valley R. R. Co., June 2, 1926.

<sup>bf</sup> Property conveyed by deed to Missouri-Kansas-Texas R. R. Co., Mar. 31, 1923, at midnight.

Mileage, investment, rate of return, and dividends, Class II and Class III roads in the eastern district, excluding New England region, years 1927, 1928, and 1929

Name of railway	Miles of road operated on Dec. 31, 1929	1927, 1928, 1929 (average)		Rate of return (per cent)	Dividends declared		
		Investment in road and equipment (accounts 701 and 702), including leased lines	Net railway operating income		1927	1928	1929
Arcade & Attica R. R. Corporation	28.36	\$217,811	\$9,802	4.50		\$2,844	\$2,844
Arcadia & Betsey River Ry. Co.	17.30	167,045	14,977	(1)			
Bellefonte Central R. R. Co.	19.54	550,000	12,808	2.30			
Boyer City, Gaylord & Alpena R. R.	91.52	1,900,840	14,282	(1)			
Cambria & Indiana R. R. Co.	37.65	8,435,433	826,587	9.80	\$240,000	270,000	390,000
Castleman Valley R. R. Co.	14.00	247,879	10,289	(1)			
Chesapeake Beach Ry. Co.	28.32	2,601,650	6,342	(1)			
Chesnut Ridge Ry. Co.	12.87	567,366	17,008	3.00			
Chicago, Attica & Southern R. R. Co.	155.00	2,673,786	17,740	.66			
Cornwall R. R. Co.	12.67	1,788,090	139,124	7.78	100,000	120,000	96,000
Couersport & Port Allegany R. R. Co.	32.36	592,592	20,557	3.46			
Cumberland & Pennsylvania R. R.	55.78	4,768,187	172,528	3.62			
Dansville & Mount Morris R. R. Co.	15.54	311,293	15,974	5.13			
Delaware & Northern Ry. Co.	37.30	759,109	3,593	(1)			
Delaware Valley Ry. Co.	12.71	192,575	746	.39			
Detroit, Cairo & Sandusky Ry. Co.	76.91	169,537	9,405	5.55			
East Broad Top Railroad & Coal Co.	51.14	3,057,536	33,953	1.11	136,111	35,563	65,709
East Jordan & Southern R. R. Co.	18.00	360,731	4,253	1.17	50,000		175,790
Fairport, Painesville & Eastern R. R. Co.	10.97	1,426,137	98,038	6.87			20,010
Fonda, Johnstown & Gloversville R. R. Co.	82.85	10,440,891	216,912	2.08	30,000	30,000	
Genesee & Wyoming R. R.	17.52	1,511,175	136,732	9.05	50,000	50,000	50,000
Grasse River R. R. Corporation	16.00	291,025	10,133	(1)			
Huntingdon & Broad Top Mountain Railroad & Coal Co.	74.24	7,677,426	85,481	1.11			
Jefferson Southwestern R. R. Co.	10.87	561,357	29,618	(1)			
Kane & Elk R. R. Co.	13.00	65,712	3,083	4.69			
Kansas & Sidell R. R. Co.	26.19	112,083	7,819	6.98			
Kishacoquillas Valley R. R. Co.	16.02	163,481	4,414	2.70	2,723		2,723
Lake Erie, Franklin & Clarion R. R. Co.	34.35	2,237,234	50,803	2.27			
Lakeside & Marblehead R. R. Co.	10.34	826,489	29,124	3.53	27,000	27,000	27,000
Ligonier Valley R. R. Co.	16.00	1,021,610	40,865	4.00	30,000	30,000	30,000
Litchfield & Madison Ry. Co.	44.36	2,764,464	377,178	13.64	45,000	60,000	660,000
Lowville & Beaver River R. R. Co.	10.44	298,211	10,677	3.58	4,592	4,592	4,592
Manistee & Northeastern Ry. Co.	115.57	1,168,399	2,349	.20			
Maryland & Delaware Coast Ry. Co.	47.40	249,883	8,501	3.40			
Maryland & Pennsylvania R. R. Co.	80.69	5,179,797	201,810	3.90			81,120
Middletown & Unionville R. R. Co.	14.30	664,894	31,817	4.79	8,195	2,980	4,470
Morristown & Erie R. R. Co.	12.96	845,786	32,167	3.80	8,000	8,000	16,000
Mount Jewett, Kinzua & Rittersville R. R. Co.	24.03	389,650	5,160	(1)			
New York & Pennsylvania Ry. Co.	50.13	1,053,879	7,349	.70			
Norwood & St. Lawrence R. R. Co.	18.35	760,832	23,463	3.12	12,500	75,000	
Pittsburgh & Susquehanna R. R. Co.	18.29	556,026	11,627	(1)			
Pittsburgh, Lisbon & Western R. R. Co.	23.30	454,130	38,798	8.54	15,000		
Port Huron & Detroit R. R. Co.	19.08	776,668	106,953	13.77			
Prattsburgh Railway Corporation	11.44	152,787	4,141	2.71			
Quakertown & Bethlehem R. R. Co.	13.00	118,575	18,610	(1)			
Rahway Valley Co., lessee	12.45	521,947	10,309	1.98			
Raritan River R. R. Co.	23.20	2,009,088	128,058	6.42	161,200	90,000	100,000
St. Louis & Ohio River R. R.	12.73	1,236,120	24,864	2.01			58,000
Sheffield & Tionesta Ry. Co.	33.52	356,096	6,268	1.79			
Stewartstown R. R. Co.	16.20	173,149	469	.27	4,200	3,850	3,850
Susquehanna & New York R. R. Co.	67.72	1,796,965	16,486	.92			
Susquehanna River & Western R. R. Co.	33.71	331,857	1,690	(1)			
Tionesta Valley Ry. Co.	51.96	811,677	34,781	4.29	50,000	50,000	50,000
Toledo, Angola & Western Ry. Co.	10.03	581,635	45,043	7.74			

<sup>1</sup> Deficit.

<sup>2</sup> Represents returns for period May 27 to Dec. 31, 1927, inclusive; Aug. 6 to Dec. 31, 1928, inclusive, and for the year 1929. No report filed for period Jan. 1, to Aug. 5, 1928.

<sup>3</sup> Represents returns for Delaware & Northern Ry. Co. for 1929 and the Delaware & Northern R. R. Co. for 1928 and 1927.

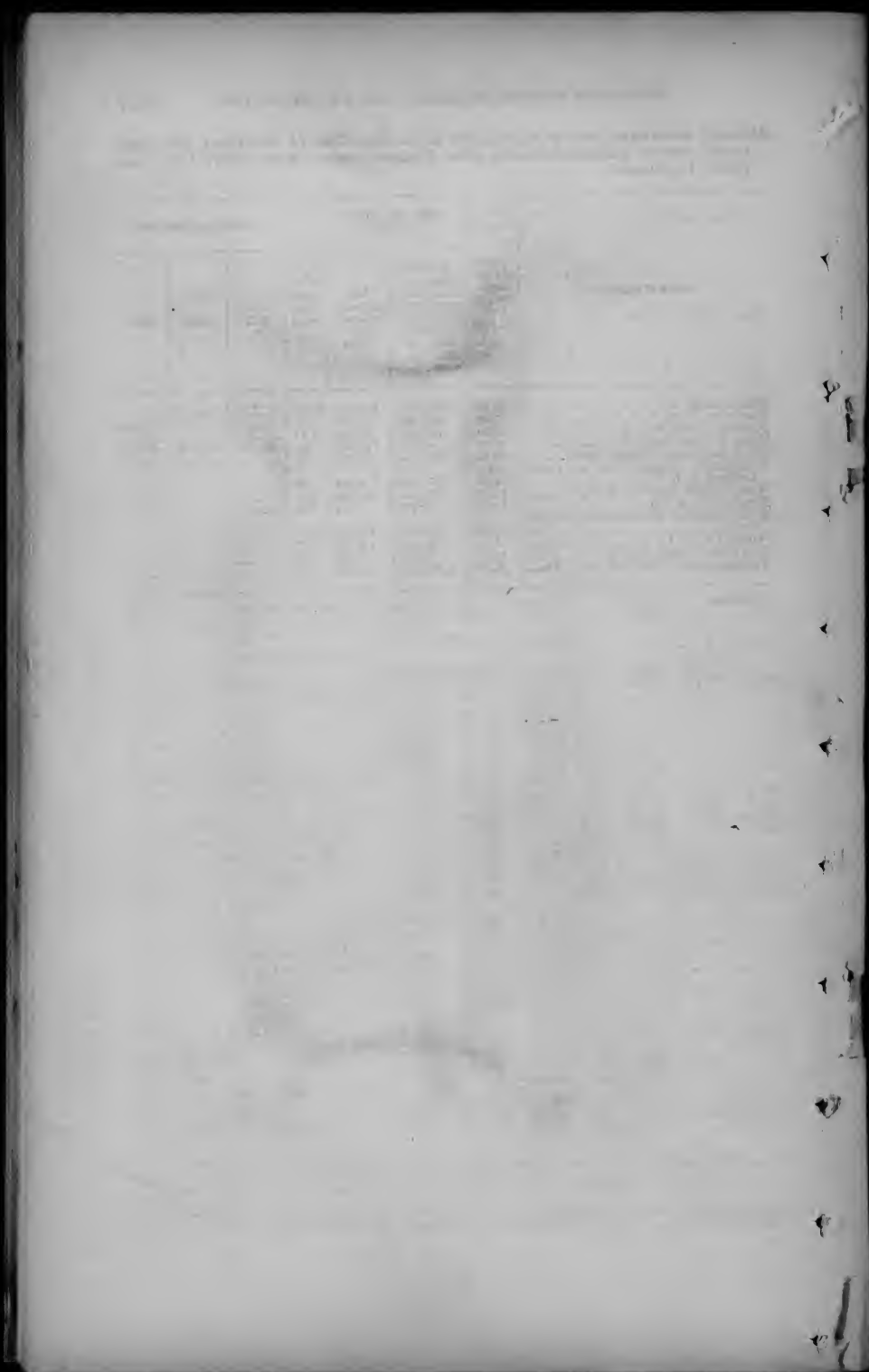
<sup>4</sup> Represents returns for Manistee-North Eastern R. R. Co. for period Jan. 1 to Apr. 30, 1927, inclusive, and the Manistee & Northeastern Ry. Co. for period May 1 to Dec. 31, 1927, and the years 1928 and 1929.

Mileage, investment, rate of return, and dividends, Class II and Class III roads in the eastern district, excluding New England region, years 1927, 1928, and 1929—Continued

Name of railway	Miles of road operated on Dec. 31, 1929	1927, 1928, 1929 (average)		Rate of return (per cent)	Dividends declared		
		Investment in road and equipment (accounts 701 and 702), including leased lines	Net railway operating income		1927	1928	1929
Tuckerton R. R. Co.	28.90	\$676,851	\$10,283	\$1.52			
Tuscarora Valley R. R. Co.	27.00	338,738	12,367	(1)			
Unadilla Valley Ry. Co.	19.14	583,593	22,240	3.81			
Union Transportation Co.	24.37	40,547	12,373	(1)	\$1,013	\$1,013	\$1,013
Valley R. R. Co. (Pennsylvania)	10.41	127,294	3,410	(1)			
Washington, Brandywine & Point Lookout R. R. Co.	24.00	176,934	3,684	2.08			
West Virginia Northern R. R. Co.	11.34	169,340	51,895	(1)			
Westfield R. R. Co.	19.53	98,944	121	.12			
Williamsport & North Branch R. R. Co.	46.00	820,404	13,675	(1)			
Winfield R. R. Co.	13.02	68,555	18,722	(1)			
Yale Short Line R. R. Co.	12.36	50,000	182	.36			
Youngstown & Ohio River R. R. Co.	36.77	3,434,245	14,192	(1)			

<sup>1</sup> Deficit.





# Volume 2

*Committee Print*

71st CONGRESS }  
3d Session }

SENATE }

PRELIMINARY REPORT  
OF STUDY OF  
RAILROAD CONSOLIDATIONS  
AND UNIFICATIONS

PURSUANT TO  
SENATE RESOLUTION No. 290, 71ST CONGRESS  
SUBMITTED BY  
WM. C. GREEN, SPECIAL COUNSEL  
TO  
COMMITTEE ON INTERSTATE COMMERCE

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PART II—SUMMARY



PRINTED FOR THE USE OF THE  
COMMITTEE ON INTERSTATE COMMERCE

UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1931



**PRELIMINARY REPORT OF STUDY OF RAILROAD CON-  
SOLIDATIONS AND UNIFICATIONS**

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**PART II**

**SENATE RESOLUTION 290**

This resolution provides:

"That for the purpose of obtaining information as a basis for legislation the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is hereby authorized and directed to make a study of and to investigate the matter of consolidation and unification of railroad properties and the effect of such consolidations and unifications upon the public interest.

"The committee shall report to the Senate the results of its studies and investigation, including such recommendations for legislation as it deems advisable."

**PRELIMINARY REPORT**

Pursuant to instructions of the chairman, counsel for the committee has made a study of railroad consolidations and unifications and prepared a preliminary report. This report consists of 217 pages. For the purpose of convenience the following summary has been prepared, reference being made herein to the pages of the preliminary report on which the matter summarized appears.

## SUMMARY

### DIVERSITY OF OPINION AS TO CONSOLIDATION

While it appears to have been assumed in many of the hearings which have been held before the committees of Congress and even in reports of committees that the country is committed to a policy of railroad consolidations, a complete study of the subject furnishes convincing evidence that there is a sufficient diversity of opinion as to the policy of consolidation and as to the specific provisions of existing and proposed law dealing with that policy to require an impartial study.

### OUTLINE OF STUDY

In order to make such a study and to assemble information which may be a guide for future legislation, the subject may be considered under the following heads:

- (1) History prior to transportation act of 1920.
- (2) Transportation act of 1920 and legislative history.
- (3) Reasons for enactment of consolidation provisions.
- (4) Original intention as to maintenance of competition and classes of roads to be consolidated.
- (5) Action by Congress and the Interstate Commerce Commission since the transportation act:
  - (a) Ripley plan, and plans of the commission.
  - (b) Defects in consolidation provisions of act.
  - (c) Proposed amendatory legislation, 1924-1929.
- (6) Hearings before Senate and House committees and opinions of witnesses pro and con on:
  - (a) Reasons for consolidation provisions in law.
  - (b) Advantages of consolidation.
  - (c) Weak-line problem.
  - (d) Complete plan of consolidation.
  - (e) Competition.
- (7) Weak roads enumerated by Senator Cummins as illustrations demonstrating necessity for consolidation and subsequent history.
- (8) Present condition of railroads.
- (9) Acquisitions of control under paragraph 2, section 5, 1920-1930; analyses of such acquisitions:
  - (a) Have voluntary acquisitions shown tendency of strong systems to take in weak roads?
  - (b) Have acquisitions effected benefits intended by Congress in enactment of law?
- (10) Effects of short-haul provisions in cases of consolidation; through routes.
- (11) Effects of consolidation on labor.
- (12) Opinions of students of consolidation not in records of hearings.
- (13) Proposed consolidations.
- (14) Holding companies.

- (15) Present proposed legislation.
- (16) Conclusions.
  - (a) Are there differences of opinion as to policy of consolidation.
  - (b) Basis of consolidation provisions of transportation act.
  - (c) Benefits anticipated from consolidation.
  - (d) Intention of Congress as to maintenance of competition.
  - (e) Intention of Congress in exempting consolidating carriers from antitrust acts.
  - (f) Has consolidation legislation accomplished original purpose?
  - (g) Will consolidation result in substantial economies?
  - (h) Will consolidation result in reduction of rates?
  - (i) Benefits of consolidation.
  - (j) Who will receive benefits, if any?
  - (k) Will there be corresponding detriments?
  - (l) What effect will consolidation have on labor?
  - (m) What effect will consolidation have on shippers?
  - (n) Objections to consolidations:
    - 1. Subject to antitrust laws.
    - 2. In violation of antitrust laws.
    - 3. Short and weak lines.
  - (o) Additional legislation necessary.
  - (p) Amendments as to procedure.
  - (q) Public interest—preservation of competition and maintenance of through routes.
  - (r) Program of consolidation to aid weak roads.
  - (s) Should consolidation policy of transportation act be continued?

#### CONSOLIDATIONS PRIOR TO TRANSPORTATION ACT

Consolidations of noncompeting roads and acquisitions of feeders are not new. Such consolidations commenced over 70 years ago and continued without specific legislation up to the passage of the transportation act. During this period some of the largest systems, such as the New York Central, Pennsylvania, Santa Fe, Southern Pacific, and others were formed. From the time the antitrust laws were declared by the Supreme Court to apply to railroads, consolidations were confined to noncompeting roads. Up to the time of the passage of the transportation act it was the prevailing economic theory that public interest was best served through competition of rail carriers, both in rates and service, with regulation to prevent discrimination, rebates, and unjust and unreasonable rates (p. 4).

#### CONSOLIDATION PROVISIONS OF TRANSPORTATION ACT

By the transportation act of 1920 legislative recognition and encouragement was first given to railroad consolidations. The portions of the act dealing with consolidations provided for—

- (a) Acquisitions of control not amounting to consolidations.
- (b) Consolidations in accordance with a complete plan of the Interstate Commerce Commission grouping the railroads of the United States in a limited number of systems, in which grouping—
  - (1) Competition should be preserved as fully as possible.
  - (2) Existing routes and channels of trade should be maintained wherever practicable.

Subject to which requirements systems should be so arranged that—

(3) Cost of transportation as between competitive systems and as related to value of properties should be same so far as practicable.

(4) To the end that systems might employ uniform rates and earn substantially same rate of return on value of property.

Securities of owner of consolidated property not to exceed value of property as determined by section 19a.

Carriers effecting consolidation to be relieved from antitrust laws and other restraints of Federal or State laws.

The bill was a compromise. The Senate first stood for compulsory consolidation under a plan, but receded from the compulsory provisions and the House agreed to the plan and other present provisions of act (pp. 5-10).

#### REASONS FOR ENACTMENT OF CONSOLIDATION PROVISIONS

One of the large problems with reference to railroads which faced Congress was that although provision had been made for the fixing of rates by the Interstate Commerce Commission, it would be impossible for the commission to fix rates just to the public and yet maintaining the entire transportation system of the country, because with the widely varying conditions of railroads, in any area rates which would furnish one company an adequate income would lead another into bankruptcy. On the other hand, if rates were fixed sufficiently high to maintain the weak roads the return to the stronger roads would be grossly excessive. As stated by Samuel W. Moore in an article appearing in the Virginia Law Review, June, 1929, page 746:

"The program for railroad consolidation offered a simple and sure method for equalizing the fortunes of the strong and the weak. Certain strong lines and certain weak lines would be combined into one system. The higher earning power of the prosperous roads in the system would be diluted by the inclusion of the weaker lines. Financial strength would be offset by financial weakness. A fair average would result. All systems would be created in the same manner. Thereafter there would be no strong roads with excessive earnings, and no weak roads struggling to make both ends meet. All systems would be relatively equal in value and earning power. An important feature of the plan was that all short lines, and particularly the weak short lines, would be provided for, and all would find a haven of absorption in some of the new systems. So reasoned Senator Cummins and those of his school of thought."

A temporary adjustment pending the carrying out of the consolidation program was to be made by use of the recapture clause (pp. 10-14).

#### VIEWS AS TO MAINTENANCE OF COMPETITION

##### SPONSORS OF LEGISLATION AND RAIL OFFICIALS DECLARED INTENTION THAT COMPETITION SHOULD BE PRESERVED

The debates in the Senate and especially the speeches of Senator Cummins and Senator Kellogg, the chief supporters of the bill on the floor, show clearly the intention of the supporters of the policy that



in the carrying out of a consolidation program competition must be maintained, and that consolidations should only be permitted along the lines of natural competitive transportation. At the hearings held prior to the passage of the act, the representatives of the railroads declared it to be their purpose that competition in service, at least between the principal competing roads, should be maintained and that the principal lines of the country should be maintained as separate competing organizations by which the weaker complementary (not competitive) lines would be taken in.

The report of the Senate committee stated:

"The superior efficiency of several systems need not be enumerated at length, but there is one consideration to which attention should be called: Competition, not in rates or charges but in service, will do more to strengthen and make public regulation successful than any other element which can be introduced into the business of transportation. Honorable rivalry among men is the most powerful stimulus known to human effort. For this reason, largely, the committee, recognizing the necessity for consolidation, determined in favor of the gradual unification of the railways into not less than 20 nor more than 35 systems; not regional or zone systems, but systems that will preserve substantially existing channels of commerce and full competition in service."

From an examination of the record in Congress and from a reading of the testimony given in the hearings it is safe to draw the conclusion that, however broad the language of the act removing the restrictions of the antitrust laws may be, it was not the purpose of Congress to radically change the policy of the Government; that the idea of consolidation was to gather in the weaker lines which were not self-sustaining and that the prohibitions imposed by the antitrust laws were removed from approved consolidations because the absorption of weak or short lines might in some instances involve violations of those laws, but that competition in transportation service would be maintained by the preservation of the principal lines of the country as separate competing organizations (pp. 15-24).

#### ACTION BY CONGRESS AND INTERSTATE COMMERCE COMMISSION SINCE TRANSPORTATION ACT—RIPLEY PLAN—COMMISSION PLANS

At the direction of the Interstate Commerce Commission, Prof. William Z. Ripley, of Harvard University, made an investigation of the subject of railroad consolidations, and in 1921 presented a plan proposing 21 systems (63 I. C. C. 465). In connection with his plan he prepared a lengthy report, in which he discussed generally the consolidation provisions of the law and the situations of the railroads of the country. He made no provision for a large majority of the short lines.

On August 3, 1921, the commission adopted a tentative plan, differing somewhat from that of Professor Ripley, and providing for 19 systems (63 I. C. C. 455).

Hearings on the tentative plan were begun in 1922 and continued until 1925, and on December 9, 1929, the commission published its comprehensive plan of consolidation, providing for 21 systems (159 I. C. C. 522) (pp. 24-27).

#### CLAIMED DEFECTS IN TRANSPORTATION ACT

In various annual reports of the Interstate Commerce Commission and in the testimony of witnesses appearing before the committees of Congress, claimed defects in the consolidation provisions of the transportation act have been pointed out. Briefly the main defects claimed are:

1. Requirement for comprehensive plan. Believed impracticable.
2. No authority in commission to approve consolidations before adoption of plan.
3. No authority to adopt alternative plans.
4. No method of complete unification provided except technical consolidation.
5. No provision for joint ownership of terminals, etc.
6. No authority to disapprove unification plan because of omission of carriers which should be included.
7. No definite provision giving exclusive jurisdiction of consolidations to commission.
8. No provision for control of holding companies.
9. No adequate Federal machinery for effecting consolidations.
10. No adequate provision for adjusting claims of dissenting minority stockholders.
11. Limit of securities to valuation impractical, resulting in delays.
12. Taxes obstacle to consolidation (pp. 27-29).

#### PROPOSED AMENDATORY LEGISLATION 1924-1929

Commencing with the Sixty-eighth Congress and continuing down to and including the Seventy-first Congress various bills for the amendment of the consolidation provisions of the transportation act have been introduced in the Senate and in the House and hearings held. A list of these bills is given in the report and a synopsis of the principal provisions of each. Many of the provisions have been carried forward and appear in S. 668, now before the committee and discussed in the report under the head "Present proposed legislation." Therefore, they are not again summarized here. S. 1870 contained a provision not carried into subsequent legislation by which at the expiration of a certain period after the commission had formulated its plan the earnings of the roads within any proposed system were to be adjusted by the recapture process. This method was to constitute a form of indirect compulsion to consolidation (pp. 29-38).

#### REASONS FOR AND ADVANTAGES OF CONSOLIDATION—CONTRA

At the several hearings held before the committee of the Senate and House various witnesses have testified upon the more important features of the consolidation program. The reasons for a consolidation policy and the advantages of and objections to such a policy as claimed by these witnesses can be summarized in parallel pro and con columns. The testimony of the witnesses supporting the various contentions is quite fully abstracted in the report.

#### PRO

Purpose to establish railroad units of such uniform character as

#### CON

Impossible to rearrange railway properties to produce systems of

is necessary to secure fair return for all roads while operating upon average rates. Necessary to carry out rate theory of transportation act. (Oldham, 1923, pp. 40-41, 1926, p. 42; Secretary Hoover 1924, p. 39.)

Equalization of earnings. (President Coolidge, message 1924, p. 46.)

More uniform and satisfactory rate structure. (President Hoover, message, 1929, p. 46.)

Simplified and improved rate regulation. (United States Chamber of Commerce, 1923, p. 48; President Hoover, message 1929, p. 46.)

Solution of weak road problem. (Secretary Hoover, 1924, p. 39; Senator Cummins, 1925, p. 48; Thom, 1924, p. 60; 1926, p. 43; Duncan, 1926, p. 44; Cain, 1924-1927, p. 61; pp. 70-80.)

Purpose to secure lowest possible transportation rates. (Senator Cummins, 1924, p. 59.)

If weak-line problem solved by absorption of weak lines by strong systems Congress may make scientific rates related to service and shipping public will not be called on to pay more than necessary to take care of weak line problem. (Thom, 1926, p. 43.)

Better adjustment of railway rates. (Secretary Hoover, 1924, p. 39; Oldham, 1924, p. 40, 1926, p. 42; Duncan, 1926, p. 44; United States Chamber of Commerce, 1923, p. 47.)

equal strength operating at same cost and earning same rate of return. The larger the system, the more difficult to equalize these factors. (Negative arguments, United States Chamber of Commerce, 1924, p. 55.)

Too much emphasis on saving of weak lines as a reason for consolidation. (Willard 1928, p. 65.)

Weak line problem exaggerated. Can be worked out other ways. (Fulbright, 1926, p. 54; 1928, pp. 85-86.)

Situation not now acute. (Commissioner McManamy, 1929, p. 51.)

Weak lines are going to be acquired only on basis of whether or not conclusion ultimately reached that transaction is commercially justified. (Thom, 1926, p. 81; 1925, p. 86; Lovett, 1926, p. 84.)

Country should not be led into belief that great consolidations involve any probability that general level of rates may be substantially reduced. (Commissioner Eastman, 1926, p. 49.)

No evidence that mergers will result in reduction of rates. (Minnesota Members of House, 1930, p. 56.)

Does not believe economies sufficient to justify reduction in freight rates. (Lovett, 1926, p. 63.)

More equitable adjustment of rates between commodities. (Secretary Hoover, 1924, p. 39; President Coolidge, message, 1924, p. 46; Thom, 1924, p. 60.)

Adequate and efficient transportation facilities for service of all communities. (Duncan, 1926, p. 44; Commissioner Hall, 1926, p. 46; Thom, 1924, p. 60; Cain, 1926, pp. 70-80; Lovett, 1926, pp. 63-64.)

Limited number of more uniformly strong and stable railroad systems. (United States Chamber of Commerce, 1923, p. 48.)

Wholesale consolidation of railroads would make operation unwieldy. (Webster, 1930, p. 58.)

Economy and efficiency more than matter of size. Question how far single management can with advantage be extended over railway lines. (Commissioner Eastman, 1926, p. 49.)

Strong ground for belief best results in operating efficiency and service secured when system is small enough for executive to maintain personal contact. (Commissioner Eastman, 1929, p. 50.)

Few great systems produce undue centralization of power in few hands. Great systems if financially successful will be powerful, arrogant and indifferent to shippers' needs. (Negative arguments, United States Chamber of Commerce, 1924, p. 55.)

Not at all impossible to effect consolidations with a prodigality of expenditure or incurred liabilities that will nullify all good results. (Commissioner Eastman, 1926, p. 49.)

Sentiment for consolidation largely artificial and emanates for most part from financial circles which are most likely to reap large profits from the mere process of putting the roads together. (Commissioner Eastman, 1929, p. 50.)

Rehabilitation of railroads' credit. (Duncan, 1926, p. 44; Lovett, 1926, p. 64.)

More economical and convenient financing. (President Coolidge, message, 1924, p. 46; Harris, 1926, p. 64.)

More stable financial structure. (President Hoover, message, 1929, p. 46.)

Sustained earning capacity and better credit. (Thom, 1924, p. 60.)

Less difficulty in labor adjustments. (President Coolidge, message, 1924, p. 46.)

Solve terminal difficulties. (President Coolidge, message, 1924, p. 46; Secretary Hoover, 1924, p. 58; Commissioner Hall, 1926, p. 67.)

Fluctuations in earnings of short lines avoided. (Cain, 1926, p. 61.)

#### Economies:

Economies in construction, maintenance and operation which, while sometimes exaggerated, will nevertheless be important. (United States Chamber of Commerce, 1923, p. 48.)

#### Probable economies:

Cheaper maintenance of equipment. Avoid expense delays in discharge and unloading. (Secretary Hoover, 1924, p. 58.)

Possible discontinue service on useless lines furnishing duplicated service. System able to do business on own lines by shorter hauls and have choice of routes. By purchases on larger scales. Borrow money better terms. Elimination of switching. Standardization of materials.

Elimination of interline accounting. Greater ability to utilize shops and equipment on all parts of system to maximum extent. Freight cars at home on all parts of system. (Thom, 1924, p. 60.)

Saving in operation of full trains and full power. (Cain, 1926, p. 61.)

Small amount possible in overhead expenses on superintendence. Printing and tariff publications. Fewer and larger repair shops. Use of consolidated parallel tracks as double track. (Duncan, 1926, p. 61.)

(See generally report on S.

Tendency to exaggerate economies. (Commissioner Eastman, 1926, p. 49.)

No important economies of operation can be brought about by consolidation. On other hand looser supervision will probably increase operating costs. (United States Chamber of Commerce, negative argument, 1924, p. 55.)

"Saving in cost of operation was a negligible factor in my mind. \* \* \* If this bill is to be voted up or voted down on the basis of saving that would be effected by consolidation in operation alone, I have not sufficient basis for urging it." (Senator Cummins, 1924, p. 59.)

"A good deal of expert opinion among railroad people is to the effect that the idea of economy can be overestimated as a cause for consolidation. There is a difference of opinion among men on that subject." (Thom, 1924, p. 59.)

Our observation that consolidations do not materially reduce any operating expenses. (Fulbright, 1926, p. 68.)

Some economies in consolidation but offset in many instances by additional expense, so on the whole amount saved overestimated. Economies will not be sufficient to justify reduction of freight rates. (Lovett, 1926, p. 63.)

Thinks many economies but overexaggerated. (Willard, 1928, pp. 65-66.)

3840, April, 1926, abstracted at p. 35.)

Improved car service, with wider movement of cars on home line, less car interchange. (United States Chamber of Commerce, 1923, p. 48; Secretary Hoover, 1924, p. 58; Commissioner Hall, 1926, p. 67.)

Utilization of more direct routes, better grades, and shorter hauls. (United States Chamber of Commerce, 1923, p. 48; Secretary Hoover, 1924, p. 58.)

Better handling of traffic. (Secretary Hoover, 1924, p. 58.)

Reduction of number of systems will reduce number of executives and result in easier obtaining of uniform policies and simplify dealing of roads with each other. (Thom, 1924, p. 60; Commissioner Hall, 1926, p. 67.)

Simplification of regulation by Interstate Commerce Commission with smaller number of systems. (Thom, 1924, p. 60; Commissioner Hall, 1926, p. 67.)

Uniform service. Minimum number of systems for products to move over in reaching final market. Solid trains and heavier car loading. Discontinuance back hauls and nonuse many junction points. (Commissioner Hall, 1926, p. 67.)

Strengthen existing systems. (Lovett, 1926, p. 64; Willard, 1928, p. 65.)

No certainty of reduction in operating costs. Systems already so large probably have secured maximum economies. (National City Co., 1930, p. 69.)

Service has been improved by cooperation. (Commissioner Eastman, 1926, p. 49.)

No car shortage for more than five years. (Commissioner McManamy, 1930, p. 51.)

No necessity exists for consolidation of railroads now in view of manner in which American Railway Association functions. (Webster, 1930, p. 58.)

No general distribution of railway properties can be brought about without changing seriously existing routes and channels of trade and commerce. (Negative argument, United States Chamber of Commerce, 1924, p. 55.)

Great consolidated systems if not successful will produce more serious problem than we now have, because no power but Government adequate to take over such properties. (Negative



argument, United States Chamber of Commerce, 1924, p. 55.)

Consolidations will result in reduction of numbers of employees and emphasize unemployment situation. (Minnesota Members of House, 1930, p. 56; Webster, 1930, p. 58; National City Co., 1930, p. 69; Richberg, 1930, p. 69.)

Communities will be adversely affected. (Minnesota Members of House, 1930, p. 56; National City Co., 1930, p. 69; Richberg, 1930, p. 69.)

Transportation service will be impaired by reduction of trains and elimination of shops and other institutions. (Minnesota Members of House, 1930, p. 56.)

Further arguments as to claimed advantages or disadvantages are presented under the heads "Results of Short Haul Provisions in Cases of Consolidation," "Effects of Consolidation on Labor," and "Opinions of Students of Consolidation not in Records of Hearings," and reference to these arguments will be made in this summary under those headings.

#### WEAK LINE PROBLEM—CONFLICT OF VIEW OF SHORT LINES AND STRONG LINES

#### SHORT LINE VIEW—CONSOLIDATIONS FOR BENEFIT SHORT AND WEAK LINES

In view of the often repeated statements of Senator Cummins that the purpose of the consolidation legislation was to preserve the transportation facilities of the country by providing a method by which the weak lines of the country might be preserved, without injustice to the rate-paying public, it is important to endeavor to gather just what the policy has done or is likely to do for those weak lines.

The representatives of the short lines have taken the position at the hearings that if the short and weak lines are not preserved and fostered through the consolidation plan, the transportation act is a failure, or worse than a failure because strong lines can acquire other strong lines without any obligation to take the weak ones—and that as a matter of fact that is being done under paragraph 2 of section 5 (the acquisition of control provision). Their claim is that the other aids, such as the provisions for divisions, are not adequate; that if a short line is granted higher divisions, it will result in the strong lines routing business over other roads. Their position in 1926 was, that if a complete plan was not to be carried out, there must be some such provision as that contained in S. 1870, by which provisional groupings would be made, with a distribution of excess earnings of strong roads to the roads within the group not earning a fair

return. They felt that any plan of voluntary consolidation without some such safeguard would result in the strong growing stronger and the weak weaker. They did not express any hope that any substantial number of weak lines would be taken over for a long time, but thought that some such provision as that mentioned would stimulate mergers (pp. 69–80).

#### STRONG LINE VIEW—NOT COMPELLED ACQUIRE SHORT LINES UNLESS ACQUISITION COMMERCIALLY JUSTIFIABLE

The representatives of the larger roads, as represented by the Association of Railway Executives, have taken the position that the purpose of the legislation is to strengthen transportation facilities of the country generally, and that no system of consolidation should be adopted merely in the interest of lines doing the smallest amount of transportation service. Their contention is that consolidation is a business proposition; that no road can be or should be compelled to take over another which is a losing proposition, or which can not be obtained on terms commercially justified and that weak lines will be acquired only on that basis. They say that all barriers to possible consolidations should be removed and let the railroad managements study the opportunities for improvement and mutual advantage and better service to the public, but that legislative action should be avoided which would tend to saddle weak lines on strong lines in such a manner that general transportation service would be made to suffer. They express the fear that any compulsory plan would encourage speculators in the stock of weak roads to hold up the price. Judge Lovett stated his belief that strong carriers would rather submit to recapture than be forced to accept unprofitable roads. (Thom, pp. 81 and 86; Duncan, pp. 82–84 and p. 92; Lovett, pp. 84–85 and p. 93.)

The representative of the shippers stated that in his opinion the weak line problem was greatly exaggerated, and that many of the roads referred to by Senator Cummins as weak were already subsidiaries of strong systems. (Fulbright, pp. 54–55 and p. 85.)

#### COMPLETE PLAN

#### GENERAL OPINION IT IS IMPRACTICABLE—POWER TO FORCE CONSOLIDATIONS DENIED

This subject is closely allied to the last. Mr. Thom for the railroads expressed his opinion that the provision for a complete plan is thoroughly unworkable. Mr. Harris of the New York Central insisted that consolidations must be voluntary—that there is no way to compel roads to consolidate unless the transaction is satisfactory to the security holders. The commission asked repeatedly to be relieved of the responsibility of preparing a plan. Judge Lovett said:

"I have never believed that Congress or the commission has power to force consolidations against the wish of the company that owns the properties. I think that the legislation will be effective by opening the door to voluntary consolidations under the regulation of the commission and since the commission, as a condition of approving the proposed consolidation may attach



conditions with respect to the taking in of another line, as this (the pending bill) will provide, that will lead to the absorption of many of the weak lines, and probably in time all of the weak lines."

And in answer to the question:

"But under your view, it could only lead to it through an agreement voluntarily reached between the weak and the strong lines?" he replied: "That is my judgment" (pp. 86-94).

#### COMPETITION

##### ATTEMPTS TO MINIMIZE IMPORTANCE—THEORY OF SUBSTITUTING NEW COMPETITION FOR EXISTING—SHIPPERS AND LABOR INSIST ON PRESERVATION

There is no question as to the views of the sponsors of this legislation as to maintaining existing competition. By the statute that is the first condition to be observed in forming systems. From the time of the passage of the act until the present time there has been a tendency in proposals for legislation to minimize the importance of maintaining existing competition, and to substitute a new policy of simply requiring competition between the new systems to be formed. In the early hearings the same views were expressed by witnesses such as Mr. Hoover (p. 94) and Judge Lovett as were expressed by Senator Kellogg in the Senate. Judge Lovett said he hoped the consolidation program would not eliminate competition because he believed in it strongly as an essential feature of railroad policy—that he did not favor consolidations that would remove substantial (and not merely incidental) competition (p. 95).

Mr. John E. Oldham, an investment banker who was very prominent in hearings on consolidation matters in the early days of the law, announced in an article in the Harvard Business Review in January, 1923:

"The act specifically provides that the commission in preparing its plan shall aim to preserve competition as fully as possible. It is inevitable, however, that much of the existing competition will disappear if consolidations are to be made on such an extensive scale as is indicated by the intent and wording of the law" (p. 96).

Senator Cummins in January, 1926, showed his first inclination to subordinate the idea of maintaining competition to the final purpose of creating systems, and at the same hearing agreed to the proposition of requiring competition only between the consolidated systems—which, of course, would in many instances do away with the maintenance of existing competition (p. 97).

The position of the railroads has been that if the destruction of competition is found or considered by the commission to be in the public interest, the commission should have power to permit such destruction (p. 98, Thom).

The commission has said that if the interference with competition is not unduly great, "if effective competition is preserved at all important points, and particularly if the tendency of the combination is to increase and promote other competition to compensate for that destroyed or lessened, the combination may well merit our approval" (p. 99).

Mr. R. C. Fulbright, representing the National Industrial Traffic League, on behalf of shippers, insisted that there was no intention to change the settled policy of the Nation in favor of the preservation of competition; that many consolidations were made after the passage of the antitrust law; that there has been a great deal of propaganda to the effect that the transportation act changed the policy of the law, which was not correct; that the shippers have always insisted that competition should be preserved and that sentiment to the contrary has largely originated with financial interests and so-called investment banking interests. His idea was that the operation of the antitrust laws was suspended as to consolidations so that the commission would have full authority to preserve competition, and that their action would not be embarrassed by action in the courts. He suggested a simple authority to the commission to approve a unification where it finds it is in the public interest "*and that it will not substantially reduce existing competition.*" To this the railroads objected strenuously, claiming that with such language there could be no consolidations (pp. 100 et seq.).

The New Jersey Industrial Traffic League, the Railway Labor Executives' Association, Chairman McManamy, and the members of the House from Minnesota have all expressed themselves strongly in favor of maintaining existing competition (pp. 106-108).

#### WEAK ROADS LISTED BY SENATOR CUMMINS

##### BASIS OF CLAIM THAT TRANSPORTATION SYSTEM COULD NOT SURVIVE WITHOUT CONSOLIDATION

Senator Cummins in his speech in the Senate on the transportation act recited the earnings of some of the railroad systems of the country (pp. 17, 18) as illustrating the necessity for remedial legislation if some of those roads were to live. Later in a series of newspaper articles, he listed 46 roads earning inadequate incomes in 1922, and at the hearings on S. 1870, made a part of the record, two tables, one showing 70 roads with an aggregate mileage of over 56,000 miles, which earned an average of less than 3 per cent for the years 1922-1924, and a list of 30 roads with a total mileage of over 60,000 miles which earned an average return of more than 3 per cent but less than 4 per cent during the same period (pp. 108-116).

##### COMPLETE TABULATION RATES RETURN CLASS I ROADS, 1921-1929, IN REPORT

Attached to the report is a tabulation of the rates of return of all Class I railroads for the years 1921 to 1929 inclusive, prepared by the Interstate Commerce Commission. Tables have been prepared and included in the report based on this tabulation (pp. 111-113).

##### RATES OF RETURN BASED ON BOOK VALUES—COMMISSION VALUATIONS SHOW HIGHER RETURN

The rates of return shown are based on book value. On the commission valuations some roads show a great difference. Some of these are listed on page 109. For instance, the Erie, always called a weak

road, showing a return on book value for 1928 of only 3.69 per cent, shows a return on commission valuation of 5.64 per cent, and the Missouri-Kansas-Texas, showing a book value return of only 4.80 per cent shows a return on valuation of 9.85 per cent.

#### SENATOR CUMMINS'S LIST INCLUDED MANY SUBSIDIARIES OF LARGER SYSTEMS

In listing weak roads Senator Cummins included roads which were subsidiaries or under the control of strong systems. Of his 46 roads, only 25 were independent, and of the 70, only 37 were independent. The oft-quoted statement of 50,000 to 60,000 miles of railroads on the verge of abandonment, therefore, loses some of its force (pp. 109, 111-113).

The full tabulations in the report can not be summarized, but some facts shown by them may throw some light on the subject of consolidation.

#### INDEPENDENT ROADS LISTED AS WEAK HAVE SHOWN GREATER IMPROVEMENT THAN SUBSIDIARIES

Of the roads listed by Senator Cummins in his newspaper articles and in his tables as earning less than 3 per cent, the average return for 1927-1929 showed 11 of the 33 independent roads earning more than 4 per cent, while only 5 of 35 subsidiaries made that return; 8 independents earned 3 to 4 per cent, and only 6 subsidiaries and only 1 independent of the 33 showed a deficit, while 6 of the 35 subsidiaries were in the red. (P. 114; tables, pp. 111-113.)

#### PARENT ROADS SHOW GOOD RETURN, WHILE SUBSIDIARIES SHOW DEFICIT

The tables also show that in many cases a parent company is making a good return while its subsidiary is starving. For instance, the St. Louis & Southwestern shows no return below 4.06 per cent for the years 1921 to 1929, some years running over 7 per cent, while the St. Louis & Southwestern of Texas shows deficits for 5 of the 9 years and never over 1.4 per cent. Other illustrations of similar character are cited in the report (p. 115).

#### INDEPENDENT ROADS IN 3 TO 4 PER CENT CLASS SHOW GREATER IMPROVEMENT THAN SUBSIDIARIES

Of the 30 roads listed by Senator Cummins as earning less than 4 per cent but over 3 per cent for 1922-1924, in 1927-1929 of 7 subsidiaries reporting only 2 showed a return of over 4 per cent, while of 14 independent roads reporting 7 showed over 4 per cent and the remaining 7 over 3 per cent. Four of the 7 subsidiaries showed a gain, while all 14 independent roads showed a gain (p. 116).

#### PRESENT CONDITION OF RAILROADS

Class I roads reporting for 1927-1929 show the following average return (p. 117).

	All roads	Independent roads (included in foregoing)
Over 6 per cent.....	34	14
5 per cent to 6 per cent.....	24	14
4 per cent to 5 per cent.....	32	20
3 per cent to 4 per cent.....	31	19
Under 3 per cent.....	48	15
Not reporting (leased, etc.).....	27	
	196	82

#### ROADS NOT LISTED AS WEAK IN 1924 SHOW GENERAL GOOD CONDITION

The 80 Class I roads which earned more than 4 per cent for the period 1922-1924, show the following for 1927-1929:

	Independent	Subsidiary	Total
Over 6 per cent.....	11	19	30
5 to 6 per cent.....	9	7	16
4 to 5 per cent.....	10	7	17
3 to 4 per cent.....	4	4	8
Under 3 per cent.....	1	18	9
	35	45	80

<sup>1</sup> Florida East Coast, which dropped from an average of 4.9 per cent for five years 1922-1926, inclusive to 0.48 in 1927, following business depression there (p. 151½).

	1922-1924	1927-1929
DECREASE IN NUMBER OF ROADS SHOWING LOW RETURN SINCE 1924		
Class I roads earning less than 4 per cent.....	100	79
Class I roads earning less than 3 per cent.....	70	48
INDEPENDENT ROADS SHOW GREATEST IMPROVEMENT		
Class I roads, independent, earning less than 3 per cent.....	37	15

(Page 117.)

#### CLASS II AND CLASS III ROADS NOT PROSPEROUS

Class II and III roads for 1928 do not show up as favorably as Class I roads (p. 118).

	Net income over interest and fixed charges	Under	Total
Class II roads 1928, all.....	124	122	256
Class II roads, 1928, independent.....	56	57	113
Class III roads, 1928, all.....	131	199	330
Class III roads, 1928, independent.....	93	119	211 <sup>1</sup>

## AVERAGE DIVIDENDS PAID BY ALL CARRIERS SHOW STEADY INCREASE SINCE 1922

The percentage of stock of all railroads in the United States paying dividends has increased from 59.38, 62.09, 64.97 for 1922-1924 to 70.25, 73.65, 76.23 for 1927-1929, and the ratio of dividends declared to all stock from 3.78, 4.53, 4.14 to 5.95, 5.25, 5.70 for the same periods.

The ratios of dividends declared to all stock for the year 1929 was—

Class I companies.....	5.80
Class II companies.....	2.15
Class III companies.....	1.27

The Class I companies show a steady increase of percentage from 1921, while the Class II and III companies vary (pp. 118-119).

## ADDITIONAL STATISTICS FROM OTHER REPORTS AND STUDIES

For the purpose of continuity, there are here summarized the statistics shown by the pamphlet *The Consolidation Equation*, by Herman W. Ordemann, later referred to, by the 1930 report of Dr. Howard C. Kidd to the Pennsylvania Public Utilities Commission, and by the "Declaration of Policy" of the Association of Railway Executives, dated November 20, 1930.

## HERMAN W. ORDEMAN CLAIMS PROGRESS BY CARRIERS

## Receiverships decrease:

1916-1919—	
Roads.....	75
Miles.....	21,944
1920-1923—	
Roads.....	64
Miles.....	14,421
1924-1928—	
Roads.....	46
Miles.....	13,286.24
Close 1928—	
Roads.....	33
Miles.....	5,255.54
Expense ratios decrease:	
Operating ratio expenses to revenues—	
1916-1919..... per cent..	75.78
1920-1923..... do.....	83.57
1924-1928..... do.....	73.67
1929..... do.....	71.69
Car Shortages reduced to none:	
Car shortages—	
1916-1919.....	78,221
1920-1923.....	21,742
1924-1928.....	42
1928-29.....	None.

## EFFICIENCY OF CARRIERS INCREASED

Increase of only 42 per cent in revenue per ton-mile from 1916 to and including 1929. Operating expenses increased about 85 per cent. Tax accruals increased over 130 per cent. Comparison of revenue increases as against major expense items shows conclusively that carriers have performed duty well, results having a benefit both to public and security owners.

One thousand nine hundred and twenty freight cars moved average of 25.1 miles per day; in 1929, 32.4 miles per day; quickening in movement of freight to extent of 29 per cent.

Average tractive power per locomotive, average capacity per freight car and freight train car-miles per locomotive increased, with resultant lower operating cost (p. 155).

## PASSENGER REVENUE PER CAR MILE DECREASED

Decrease in passenger revenue per car-mile.

## DR. HOWARD C. KIDD SHOWS PROGRESS BY CARRIERS

## FALL IN NET EARNINGS 1910 TO 1920

Using 1910 as basis of 100, net earnings of railroads declined from 118 in 1916 to 80 at beginning of 1920 and to 59 at end of that year.

"In such an atmosphere of disorder the prescription of consolidation was indorsed by Congress as a remedy for the plight of the railroads."

## INCREASE IN NET EARNINGS 1920 TO 1929

Using same comparison of net earnings, find unmistakable indications of recovery.

	Index of earnings
1910.....	100
1921.....	59
1923.....	110
1926.....	151
1928.....	149

## INCREASE IN EFFICIENCY, 1922 TO 1929

While capital outlays were mounting efficiency average increasing.

*Efficiency averages, Class I railroads (Bureau of Railway Economics, miscellaneous series 51, p. 21)*

	Efficiency average
1922.....	96.5
1923.....	103.4
1924.....	104.8
1925.....	109.4
1926.....	113.5
1927.....	115.2
1928.....	118.0
1929.....	121.1

(Pp. 163-164.)

ASSOCIATION OF RAILWAY EXECUTIVES' "DECLARATION OF POLICY"  
CLAIMS DECLINE IN TRAFFIC AND REVENUE

Decrease in percentage of growth of traffic, 1890 to 1929

	Growth in railway traffic	
	Revenue ton-miles increased	Passenger miles increased
	Per cent	Per cent
1890-1900.....	85.8	35.4
1900-1910.....	80.1	101.6
1910-1920.....	62.2	46.5
1920-1929.....	8.8	134.2

<sup>1</sup> Decrease.

## Reduction in freight revenues, 1921 to 1929

	Average receipts per ton-mile (cents)	Reduction in freight revenue due to declining average receipts per ton-mile compared with 1921
1921.....	1.275	-----
1922.....	1.177	\$332,500,000
1923.....	1.116	656,236,000
1924.....	1.118	617,680,000
1925.....	1.097	736,389,000
1926.....	1.081	860,868,000
1927.....	1.080	836,037,000
1928.....	1.081	839,855,000
1929.....	1.076	890,170,000

Per cent of decline 1929 under 1921, 15.6; total reduction in revenue, \$5,769,835,000.

"Figures for average receipts per ton mile, it is fair to say, represent many factors, such as changes in commodities, distances hauled, and other items, and can not be taken as a precise guide to rate reductions, but they are conclusive as showing the trend."

## CARRIERS SHOW INCREASED EFFICIENCY, 1920 TO 1929

"During this same period the operating expenses have indicated the application of great economy and efficiency, as shown by the following figures:

Operating expenses and traffic units,<sup>1</sup> Class I steam roads—United States

	Total operating expenses	Traffic units (millions)	Expenses per 1,000 traffic units
1920.....	\$5,827,591,146.00	550,852	\$10.58
1921.....	4,562,668,302.00	418,778	10.90
1922.....	4,414,522,334.00	445,695	9.90
1923.....	4,895,166,819.00	526,597	9.30
1924.....	4,507,885,037.00	496,688	9.08
1925.....	4,536,880,291.00	521,065	8.70
1926.....	4,669,336,736.00	550,179	8.49
1927.....	4,574,177,821.00	528,586	8.64
1928.....	4,427,995,036.00	527,719	8.39
1929.....	4,506,056,262.00	540,544	8.34
Decrease, 1929 under 1920.....	1,321,534,884.00	10,308	2.24
Decrease, 1929 under 1920..... (per cent).....	22.7	1.9	21.2

<sup>1</sup> Revenue ton-miles plus equated revenue passenger-miles.

## INCREASED EFFICIENCY SECURED THROUGH LARGE CAPITAL EXPENDITURES

"This has been accomplished largely through the expenditure for capital improvements in the 9-year period amounting to \$6,855,416,000, which provided improved locomotives and equipment, improvement in the physical structure, improvement in methods, and done in conformity with the program of the railroads entered into in 1923 which, as announced at that time, was based 'on an abiding faith in the fairness of the American people and reliance on the continuance of the policy announced in the transportation act, 1920, as a measure of reasonable protection to investment in railroad property.'

"During this same period the decline in the average receipts per ton-mile has shown an accumulative amount closely approximating what has been spent for capital expenditure, \$5,769,835,000.

"Notwithstanding this economy and efficiency, rates have never produced the return on property investment contemplated in the transportation act, viz 5% per cent for the railroads as a whole.

## AVERAGE RATE OF RETURN HAS NOT REACHED FIGURE CONTEMPLATED BY ACT

Rate of return on property investment,<sup>1</sup> Class I steam roads, United States<sup>1</sup> Rate based on property investment of carriers as shown by their books, including material and supplies and cash.

	Per cent		Per cent
1921.....	2.87	1927.....	4.30
1922.....	3.59	1928.....	4.65
1923.....	4.33	1929.....	4.84
1924.....	4.23	8 months ended Aug. 31—	
1925.....	4.74	1929.....	5.48
1926.....	4.99	1930.....	3.59

## REASONS FOR LOW RETURNS

"What are the reasons?

"Reductions in rates, beginning with the year 1921, have continued up to the present moment. These reductions were brought about—

"First. By action of the Interstate Commerce Commission.



"Second. Through reductions made voluntarily by the carriers to meet competition, including that of unregulated or subsidized transportation.

"Third. Through reductions made voluntarily by the carriers for the development of industrial enterprise and communities.

"This is the situation in which the railroads of the country find themselves to-day" (pp. 157-162).

#### ACQUISITIONS OF CONTROL UNDER PARAGRAPH 2, SECTION 5, 1920 TO 1930—TENDENCY TO ACQUIRE WEAK ROADS

##### LARGE PERCENTAGE OF ACQUISITIONS NOT NEW

Of 347 acquisitions of control between March 1, 1920, and October 31, 1930, involving aggregate mileage of 56,441.45, 217 were not new acquisitions, except certain acquisitions of belt lines and terminals, being leases of subsidiaries, reorganizations, further control, etc. (p. 119).

##### NEW ACQUISITIONS CLASSIFIED

The new acquisitions, therefore, number 130, involving 151 roads or systems, a complete list appearing in the report. Of the 151 roads included there were (pp. 120-124):

Class I.....	25
Class II.....	53
Class III and unclassified short lines.....	72
State road.....	1
	151

##### MILEAGE ACQUIRED, PRINCIPALLY CLASS I ROADS

The total mileage involved in these 130 acquisitions is 24,251.69, of which 14,946.08 is accounted for by 10 Class I roads, and 4,240.04 by the remaining Class I roads. Therefore, of the 24,251.69 miles, there were 5,065.57 miles of Class II and Class III roads in the 107 acquisitions covering those classes, or an average of 47.34 miles per acquisition (p. 124).

##### FEW WEAK ROADS LISTED BY SENATOR CUMMINS ACQUIRED

Of the 46 Class I railroads referred to by Senator Cummins as weak in his newspaper articles, only 8 have been acquired; 1 additional from his list of 70 roads, and 6 from the roads earning from 3 to 4 per cent (pp. 124-125).

It should be said that probably the greater number of the Class II and III roads acquired were weak, but an examination of the orders of acquisition shows that most of them were very short, many being coal roads, etc., and natural feeders to the acquiring roads.

##### HAVE ACQUISITIONS ACCOMPLISHED ANTICIPATED BENEFITS?

##### STATISTICS OF ROADS ACQUIRED SINCE 1920 NOT SUFFICIENT AS BASIS FOR CONCLUSION

No conclusion can be drawn from statistics of roads acquired as to effects of consolidation on weak roads, because of individual con-

ditions, brief time of operation since acquisition, or because since acquisition separate returns have not been made.

Ann Arbor shows increase of return and decrease of expense ratio since acquisition.

Atlanta, Birmingham & Atlantic shows continued deficit and continued excessive expense ratio.

San Antonio, Uvalde & Gulf shows no particular change.

Kansas City, Mexico & Orient and Kansas City, Mexico & Orient of Texas show large increase in earning power and extraordinary decrease in expense ratio after acquisition, but examination shows this was due to their being compelled to credit expense accounts, especially maintenance, with large amounts, apparently previous overcharges to expense (p. 125).

##### LARGE EXPENSE RATIOS OF WEAK ROADS INDICATE PROBABLE LACK OF ECONOMY

All weak roads acquired have had large ratios of expense to revenues, indicating probable lack of economy in management as a factor of low rate of return (p. 126).

##### CLASS I ROADS NOT CLASSED BY SENATOR CUMMINS AS WEAK ACQUIRED SINCE 1920 SHOW NO INCREASE OF RETURN

As to roads acquired, not weak, comparisons between 1922, 1923, 1924 and 1927, 1928, 1929 can only be made as to four, as follows (p. 127):

	Average return (per cent)	
	1922-1924	1927-1929
International & Great Northern, acquired by New Orleans, Texas & Mexico (Missouri Pacific), 1924.....	4.41	3.90
Pere Marquette, acquired by Chesapeake & Ohio, 1928 (average return 3 years prior to acquisition, 6.12).....	5.02	6.06
New Orleans, Texas & Mexico, acquired by Missouri Pacific, 1924.....	6.79	3.55
Gulf & Ship Island, acquired by Illinois Central, 1925.....	4.78	( <sup>1</sup> )

<sup>1</sup> Deficit.

##### INCREASED RATE OF RETURN MISSOURI PACIFIC SYSTEM SINCE ACQUISITIONS

There is attached to the report a tabulation of earnings of the Missouri Pacific system, the only one largely built up since 1920. A comparison of the periods 1922-1924 and 1927-1929 shows the following average returns:

	Average return per cent	
	1922-1924	1927-1929
New Orleans, Texas & Mexico system.....	5.77	3.97
Texas & Pacific system.....	3.63	5.01
Missouri Pacific R. R. Co.....	2.72	4.13
Entire Missouri Pacific system.....	3.36	4.27

The Missouri Pacific has thus built up itself and the system by the acquisition of lines stronger than itself, although a decrease is shown in the New Orleans, Texas & Mexico, the strongest system acquired by it. This decrease, however, is probably due to some extent to increased competition by the Southern Pacific by extension of lines (pp. 127-128, and tables).

#### REFERENCE TO PREVIOUS STATISTICS SHOWING GREATER PROGRESS BY INDEPENDENT ROADS

In the consideration of the effects of consolidation, there should be kept in mind the statistics heretofore given as to comparative improvement of independent and subsidiary lines listed by Senator Cummins as weak (pp. 114, 116, report; p. 16, supra).

#### LITTLE FALL IN RATIO GENERAL EXPENSE TO REVENUES AFTER REVENUES REACH \$50,000,000

As to economies in general expenses, Doctor Lorenz, of the interstate Commerce Commission, has prepared a table and chart, attached to the report, comparing general expenses of the larger Class I carriers with revenues, for the year 1929. This table and chart show that there is not much fall in the ratio of general expense to operating revenues after the revenues pass about \$50,000,000 annually, and this holds good up to \$600,000,000 or \$700,000,000 (p. 133).

#### DO LARGE SYSTEMS EARN GREATER RETURN OR OPERATE MORE EFFICIENTLY BECAUSE OF SIZE?

A statement of the comparative earnings of larger and smaller systems in eastern territory, and of the ratio of expense to revenues shows that the larger systems neither earn a greater return, nor are they more efficient. Commissioner Eastman, in his concurring opinion on the consolidation plan, set forth the comparative earnings of these roads for 1925, 1926, and 1927. The report shows these, the ratios based on book valuation (Commissioner Eastman having used commission valuations), and a computation for 1927, 1928, and 1929, based on book value. The last, together with a comparative statement of expense ratios follows:

Road	Mileage	Per cent of average—	
		Return, 1927-1929	Ratio, operating expenses to revenues
Pennsylvania.....	10,466.72	4.94	74.29
New York Central.....	6,911.72	4.29	76.09
Baltimore & Ohio.....	5,637.89	5.09	74.03
Wabash.....	2,524.20	3.96	74.58
Nickel Plate.....	1,690.54	4.39	71.44
Lehigh Valley.....	1,363.68	4.36	76.29
Reading.....	1,140.76	4.24	77.80
Delaware, Lackawanna & Western.....	995.82	5.87	71.05
Western Maryland.....	862.14	3.69	67.86
Central of New Jersey.....	690.52	4.77	73.01

It should be noted that the Western Maryland and Wabash on the basis of commission valuation would show returns of about 6 per cent each, the Reading over 6 per cent and the Nickel Plate over 7 per cent, while there is very little difference in the returns of the larger roads between the commission valuation figures and book values (p. 132).

#### EFFECTS OF SHORT HAUL PROVISIONS IN CASES OF CONSOLIDATION—THROUGH ROUTES

##### OPEN GATEWAYS GIVE SHIPPERS BENEFIT OF COMPETITION

One of the greatest benefits to shippers on any road, and especially on a short road, is the right to ship over a number of routes and thus receive the benefit of the competition in service of the connecting carriers. Railroads, however, are entitled to the long haul—that is, to carry a shipment over their own lines as far as they can, unless the route is unreasonably long.

#### QUESTION AS TO PRESENT RIGHT OF COMMISSION TO REQUIRE MAINTENANCE THROUGH ROUTES

Commissioner Eastman, at the hearings on S. 1870, called attention to the possible complications that might arise in cases of consolidation because of this long-haul right. He questioned somewhat the legal right of the commission to require as a condition of consolidation that through routes be kept open, and suggested consideration as to whether or not the long-haul provision should be continued (pp. 135-136).

#### CONSOLIDATIONS MAY RESULT IN CIRCUITOUS HAULING OF TRAFFIC AND CLOSING OF DIRECT ROUTES

Chairman McManamy, in his concurring opinion on the consolidation plan, suggests that in view of the decision of the Supreme Court (278 U. S. 269) some consolidations proposed in the plan will result in the circuitous hauling of traffic to an extent that will probably offset all benefits. In his testimony on Senate Joint Resolution No. 161 he stated that under the decision cited the carriers may close direct routes and open indirect routes to protect themselves. That after the acquisition of the Kansas City, Mexico & Orient by the Santa Fe 155 direct routes were closed to protect the long haul; that in one case a route of 371 miles is closed and one of 410 miles is opened (pp. 136-137).

#### SMALL ROAD SUFFERS FROM CLOSING OF ROUTES

The president of the Fort Smith & Western Railroad Co. testified that up to the time the Santa Fe acquired the Orient his road received approximately \$40,000 of business per annum from the Orient, which disappeared with the acquisition, and that a similar result occurred from the acquisition of the Kansas City, Oklahoma & Gulf by the Midland Valley (p. 137).

#### ADVANTAGES OF OPEN GATEWAYS—PRESENT CONDITION READING— EFFECT OF ACQUISITION

Doctor Kidd, in his study of the consolidation problem in Pennsylvania to which reference will be made, discusses the long-haul policy and its possible effect in case of the acquisition of the Reading by the Baltimore & Ohio. He says:

"If a railroad maintains open gateways with all its connecting carriers, it is obvious that they are in a position to compete for traffic that is destined to their own territory or to the territories that they reach indirectly through connections. On the other hand, the limitation of open gateways automatically restricts the element of competition so far as connecting lines are concerned and forces traffic to move over definite routes."

He calls attention to the open-gateway policy of the Reading, and as an example cites the fact that a shipper at Reading, Pa., has an option of 322 routes through which rates are quoted in consigning freight to Peoria, Ill. After discussing the long-haul policy and the announced intention of the Baltimore & Ohio to maintain existing routes, as well as the possible authority of the commission to attach such a condition to its order approving acquisition, he concludes that while in case of a merger the competitive facilities would undoubtedly be retained for the present, serious doubts exist whether the business interests of the Baltimore & Ohio would justify the permanent maintenance of the existing routes and channels of trade, and that the shippers would be sacrificing a certainty for an uncertainty if the merger were effected (pp. 138-140).

#### COMMISSIONER EASTMAN—CONSOLIDATIONS WILL NOT TEND TO PROMOTE FREEDOM OF TRAFFIC MOVEMENT

Commissioner Eastman in the Pere Marquette case said:

"The majority say that they understand that existing routes will be maintained. \* \* \* but there are ways of discouraging the movement of traffic over routes which are not favored. It is a mistake to assume that consolidation or acquisitions of control will tend to promote freedom of traffic movement" (p. 140).

#### EFFECTS OF CONSOLIDATIONS ON LABOR

#### NO PROTECTION FOR LABOR IN CONSOLIDATION LEGISLATION— LEADERS CLAIM CONSOLIDATIONS WILL CAUSE GREAT LOSSES TO LABOR

Testifying before this committee at the hearings on S. J. Res. 161, Hon. William N. Doak, then representing the railway labor organizations, presented a resolution of the Railway Labor Executives' Association, which, after stating that for more than a year the executives of the railway labor organizations have been considering the effect of railroad consolidations, continues:

"They have become convinced that neither existing law nor any measures now under consideration by Congress provide adequate protection for the interests of either the users of transportation service, or the employees who furnish that service. It

has become clear that consolidation legislation is being sought largely to aid financiers and promoters to merge railroads and bring about financial reorganizations highly profitable to the manipulators of railroad properties, but of doubtful value to the public.

"As representatives of railway labor, we know that economical, efficient operation becomes more difficult as a railroad system expands beyond the effective control of a single head. We know that the efficiency of management is distinctly impaired as the size of a property increases beyond that which can be subjected to the constant personal supervision of a single management. We also know that practical managers do not approve or welcome consolidations which mean the ultimate determination of policy by persons remote geographically and remote in interest from the territory served by a railroad.

"As representatives of railway labor we have also watched at close hand the destructive effects upon the employees of changes in the transportation industry, partly the result of programs of efficiency and economy and partly the result of corporate policies not productive of efficiency and economy.

"When divisions have been lengthened, when terminals and other facilities have been moved and consolidated, losses amounting to millions of dollars, losses of employment which have affected over 200,000 employees, and losses through part-time employment which have affected almost all railroad employees, have been brought about and in many cases the public gain has been questionable.

"Those huge losses of railroad employees are only the beginning of widespread public injury. Hundreds of communities along the lines of consolidating railroads suffer irreparable damage. When railroad workers lose their earnings, their jobs, and their homes, not only are the merchants of their home towns deprived of their customers, but many a community loses its primary basis of prosperity as a shipping and distributing center of railroad traffic. There should be some real assurance of public benefit before the wholesale disintegration of prosperous cities and towns should be encouraged by government.

"It can not be argued by any well-informed person that consolidations of railroads are necessarily advantageous to the public interest. Yet the powers which have been conferred upon the Interstate Commerce Commission and which it is proposed to confer in any pending legislation fall far short of providing any assurance that the public interest will be protected in future consolidations. Certainly no effort whatsoever has been made up to date to protect the ultimate interests of the railway employees in these consolidations, and yet the future efficiency of steam transportation service and the continuity of that service must depend upon preserving the good will and efficient co-operation of 1,750,000 employees who must actually do the work. These men are entitled to have their interests considered and safeguarded" (pp. 141-144).

Similar views are quoted by Doctor Kidd in his study (p. 144).



## LARGE PERCENTAGE OF ECONOMIES OF CONSOLIDATION COMES OUT OF LABOR

Mr. Daniel Willard, president of the Baltimore & Ohio, stated that of economies to be effected by consolidation, one was material and labor—particularly labor; that their figures show that wages paid for labor constitute about 60 per cent of their total expense and material 40 per cent, and that of material probably 50 per cent represents wages paid to labor, so that when a railroad reduces its expenses by a dollar it is a safe thought that 80 per cent of that represents less wages paid to somebody (pp. 145-146).

## DANIEL WILLARD'S SUGGESTIONS AS TO PROTECTION OF LABOR—ENGLISH SYSTEM

Mr. Willard advocated action by Congress similar to that taken by the English Parliament, by which it was provided that men in the employ of the company should not be displaced and not reduced in rank or compensation and should be worked around in such way as might be until they could be taken care of (p. 146).

## STATISTICS AS TO EFFECT PAST ACQUISITIONS ON LABOR NOT OF VALUE

An examination of statistics as to labor employed by roads acquired since 1920 discloses nothing of value. The tables attached show no great variance, but only eight Class I roads had been acquired a sufficient length of time to furnish any basis for comparison (p. 146).

## EMPLOYEES OF CARRIERS INVOLVED IN PROPOSED CONSOLIDATIONS OBJECT

The employees of the Reading, the Northern Pacific, and the Great Northern voiced strenuous objections to the proposed consolidations involving the roads by which they were employed, at the hearings on Senate Joint Resolution No. 161 (p. 147).

## MR. WALKER D. HINES BELIEVES ECONOMIES TOO GRADUAL TO INJURE EMPLOYEES

Mr. Walker D. Hines, referring to the proposed Great Northern Pacific merger, stated that the executives of the roads involved had testified that on account of the gradual way in which economies would be effected, a reduction in force could be obtained by simply omitting to fill vacancies and that there would be no general or wholesale discharge of employees (pp. 147-148).

## RIGHT OF COMMISSION TO IMPOSE CONDITIONS PROTECTING EMPLOYEES DOUBTFUL

There is grave doubt that the commission now has authority to impose any conditions as to the protection of labor in an order approving a consolidation or acquisition (p. 148).

## OPINIONS OF STUDENTS OF CONSOLIDATION NOT IN RECORDS OF HEARINGS

PROF. I. LEO SHARFMAN, department of economics, University of Michigan. The American Railroad Problem, published 1921.

## VOLUNTARY SYSTEM OF CONSOLIDATION WILL NOT ACCOMPLISH PURPOSE

Professor Sharfman advocated a policy of unification for the same reasons heretofore set out in the "pro" column. However, discussing voluntary consolidations under regulation of the commission, such as are advocated by the railroads at the present time, he made a most startling prophesy.

"This solution (voluntary consolidation) is safe; it is negatively correct. But it can not be reasonably expected to eliminate the strong and weak road problem, and it is not likely to result in such a degree of unification as would secure full utilization of railroad plant equipment. Consolidation would still remain voluntary. The extent to which unity of operation is secured would be dependent upon the initiative of the carriers. Too much would still rest, therefore, on the motive of corporate advantage in the arrangement of the new systems. In some degree, without doubt, the stronger roads would voluntarily absorb the weaker lines; for a line that is weak when standing alone may prove to be a valuable connection or feeder for a larger system. But in most instances, powerful companies would naturally refuse to include in their mergers, lines whose routes are circuitous, whose physical condition is poor, whose credit is weak, and whose contribution to the contemplated system is of no strategic value. These voluntary consolidations would be directed primarily to the creation of more profitable operating arrangements; the process of unification would be neither sufficiently complete nor sufficiently systematic, to assure the desirable improvement in the transportation service. \* \* \* We are forced to the conclusion, therefore, that compulsory consolidation is essential to the orderly achievement of operating unity" (pp. 148-149).

## PROFESSOR RIPLEY BELIEVES CONSOLIDATIONS NECESSARY FOR SALVATION OF CARRIERS

Prof. William Z. Ripley, author of the Ripley plan, in an article in the October, 1930, number of World's Work entitled "Railroad Consolidation—What of it?" presents his views of the consolidation problem in the light of present-day conditions.

Referring to the competition, existing and potential, which the railroads must face, such as airways, highways, waterways, pipe lines, and electric power lines, with figures as to the amount of business which may be taken from the railroads by these competitors, he says:

"It is quite simple to demonstrate the soundness and inevitability of consolidation in trunk line territory in order that the railroads may not only stand firmly upon their feet, but also that they may be enabled to run" (p. 150).



## EASTERN ROADS CAN SHORTEN ROUTES BY CONSOLIDATIONS

He then discusses the New York Central, the Baltimore & Ohio, the Pennsylvania, and the Erie, with reference to the disadvantages of the route of each between New York and Chicago and the proposed Great Northern Pacific consolidation. He approves the proposal of the Baltimore & Ohio to straighten its route via the Buffalo, Rochester & Pittsburgh, Buffalo & Susquehanna, a connection to Williamsport and thence over the Reading and Central of New Jersey to New York, shortening its route over 80 miles and saving 900 in elevation at the high point; also the proposed combination of the Erie and Nickel Plate to eliminate the sawtooth course of the Erie from Chicago to Buffalo and give the Nickel Plate an outlet to New York. He suggests that the New York Central be given trackage rights over the new Baltimore & Ohio in consideration of its giving up its 50 per cent interest in the Reading. As to the Great Northern Pacific he suggests that the Milwaukee will be its competitor.

Referring to the great progress in railroad management and probable increased use of electrification he says:

"The mass production of transportation, which electrification attempts, as everything else, calls for volume and standardization; and that is exactly what consolidation, if properly effected, may bring about. Thus one reaches the final conclusion that this issue, far from being dead, deserves to be kept at the forefront of railroad affairs" (pp. 150-152).

HON. JOHN W. MCCARDLE, chairman of Indiana Commission:

## SEES NO BENEFITS FROM CONSOLIDATION

In an article published in the Indianapolis Sunday Star of January 19, 1930, Hon. John W. McCardle, chairman of the Indiana Public Service Commission, presents his views as to the proposed consolidation plan of the Interstate Commerce Commission. The following is a very brief abstract of his views.

1. During the 10 years since the passage of the transportation act the railroads have returned to a normal condition and have been able to procure at a reasonable cost the necessary funds to expand, and to-day we have the most efficient transportation machine we have ever had in the history of the country.

2. The public is interested in railroad operation from two standpoints—adequacy of transportation and the amount which it pays for railroad service.

3. No one will contend the transportation of the country to-day is not adequate and not strong enough to grow with requirements of increased business.

4. In no case where consolidation has been considered by Interstate Commerce Commission has there been any claim that lower rates may be expected.

5. While claimed that economies may be effected, anyone with business experience knows as size of business unit is increased, supervision of responsible officers more remote is weakened, and savings are offset by increased cost of business due to remote supervision.

6. Since there is nothing for the public to gain by consolidation except improved service or lower rates, and as neither may be expected, no reason from standpoint of public why consolidations should occur.

7. Individual States, in his opinion, will lose by consolidation:

(a) Diversion of business and tax income.

(b) Through consolidation of repair plants and operating units, reduced pay rolls.

(c) Through concentration of purchase of materials and supplies.

8. Indiana has already suffered large losses in pay rolls and consumption of materials as results of consolidations.

9. Two forces now urging consolidation:

(a) Important railroad systems that seek to eliminate strong competitors who seek control.

(b) Short-line railroads which hope to dispose of properties to large systems at prices not justified by earnings.

10. Through consolidation shippers will lose advantage of many available routes.

11. By doing away with existing and available routes competition will be destroyed for a large volume of business (pp. 152-153).

HERMAN W. ORDEMAN, consulting engineer:

## NO CONSOLIDATIONS EXCEPT UNDER CONDITIONS OF ANTITRUST ACTS

In a publication entitled "The Consolidation Equation," published in 1930 by the Traffic Publishing Co., appears an analysis of the railroad consolidation program by Herman W. Ordeman, consulting engineer. Reference has already been made to some of the statistics contained in this analysis. His conclusion is that "large consolidations of our railroads, except under the conditions of the Sherman Antitrust Act, should not be consummated (p. 154).

## NO BENEFITS FROM UNIFICATIONS OF PAST 10 YEARS

He notes that consolidations have been going on for 10 years; that many of them have reduced competition and that the public has received few if any benefits through reduction of rates or in service, and that whatever benefits have accrued would have probably accrued under individual control and management. Further, that consistent effort on behalf of the public can not cope with the extensive work of transportation specialists in effecting mergers and consolidations. Following is a brief abstract of his conclusions:

1. WEAK ROADS.—That no Government agency can regulate supply and demand and that roads become alternately strong and weak. That it is unfair to saddle upon the public uneconomic conditions resulting from weak roads that should never have been built. That many have become weak because of exhaustion of natural resources they were constructed to handle. That protection for the New England roads was secured by proper divisions. Saddling of weak roads on strong tends to make strong lines weak, and results in a doleful system (p. 154).

2. PROPOSED CONSOLIDATIONS—WEAK ROADS.—If purposes and motives of those who framed consolidation provisions were to protect:

weak lines against economic conditions (which can not be regulated), then why should the following acquisitions be permitted:

The Reading by the Baltimore & Ohio.

The Lehigh Valley by the Wabash.

The Lackawanna by the Erie.

The Northern Pacific by the Great Northern.

The El Paso & Southwestern by the Southern Pacific.

"Such consolidations will not reduce mortality."

Protection of weak lines only an excuse (p. 154).

3. OWNERS OF SECURITIES.—Agencies of people have no right to deprive stockholders of returns or provide a situation that would create lessening of their rights. Continuation of lines that can not support themselves or carry load with larger line amounts to destruction of stronger system (p. 156).

4. ANTITRUST ACT.—The Sherman Antitrust Act does not restrict legitimate transportation lines not in competition with one another from consolidating or merging their interests, but does not allow mergers to the detriment of the public (p. 156).

5. PROPOSED LEGISLATION.—Legislation now before Congress would permit a licensed monopolistic system of transportation (p. 156).

#### DECLARATION OF POLICY, ASSOCIATION OF RAILWAY EXECUTIVES

##### CARRIERS ASK RELIEF

A report of a committee of the Association of Railway Executives, adopted at a meeting of that body held November 20, 1930, is made a part of the study and report. The statements therein contained as to the condition of the railroads has been set out under a previous head. This declaration makes no statements with reference to consolidation, but after a statement of the claimed condition of the railroads recommends:

"First. A respite from rate reductions and suspensions by regulating bodies, both intra and inter state, and from action that will increase the expenses of the carriers.

"Second. A respite from legislative efforts of either the National or the State legislatures that would adversely affect rates or increase the expenses of the carriers.

"Third. A withdrawal of governmental competition both through direct operation of transportation facilities, as well as indirectly through subsidies.

"Fourth. A fairly comparable system of regulation for competing transportation service by water and on the highways, involving affirmative legislative action as follows:" (Here follows a statement of legislation requested as to water, commercial-highway, and pipe-line transportation) (p. 157 et seq.).

#### DR. HOWARD C. KIDD: REPORT TO PENNSYLVANIA PUBLIC SERVICE COMMISSION

Dr. Howard C. Kidd, professor of commerce and transportation at the University of Pittsburgh, a leading economist and author, who spent the year 1928 in Great Britain making a study of the British consolidation plan, was selected by the Public Service Commission of

Pennsylvania to make an investigation of consolidation proposals as they affect that State. This study and his report have been very recently completed. Doctor Kidd's findings as to the condition of railroads, effects of consolidation on through routes, and the effects upon labor have already been summarized.

He made a particular study of the proposed acquisition of the Reading by the Baltimore & Ohio, and while that portion of his report is confined to the two roads in question and to the effect of the consolidation upon the State of Pennsylvania, his findings would apply to many proposed unifications throughout the country. He also discusses the proposed allocation of all other principal lines operating in Pennsylvania, but no reference will be made to these except under the head "Present Proposed Consolidations."

His report has been abstracted very briefly in the report and this summary can give only a sketch.

#### COMPLETE PLAN OF COMMISSION AN ANOMALY

Discussing the complete plan of the commission he says:

"The complete plan thus presents an amazing anomaly. It was created by a commission which has little faith in it as a pattern for railroad grouping, and it must be considered as a factor in consolidation by this same commission" (p. 163).

#### TESTS OF CONSOLIDATIONS TO DETERMINE WHETHER IN PUBLIC INTEREST

In analyzing the proposed Reading-Baltimore & Ohio consolidation he sets up four fundamental tests of public interest, which might well be applied to all consolidations:

"1. Will service to the shippers and to the public be improved?

"2. Will the financial position of the railroads be strengthened?

"3. Will the future economic development of the State be promoted?

"4. Will costs of transportation be lowered?" (p. 165).

He discusses some elements entering into consolidations not often emphasized:

1. THE HUMAN ELEMENT.—Large part played in service by individual contact between shippers and railway officers and employees and advantages of dealing direct with officers having authority to make decisions. These human relationships should not be disturbed unless there are compensating gains unquestionably assured (p. 165).

2. A SMALL RAILROAD.—Quoting from Sir Henry Thornton, president of the Canadian National:

"A large railroad is so impersonal that it is like a gigantic machine 'with no body to kick and no soul to damn'" (p. 166).

Admitting that a small railroad is not necessarily successful and a large one unsuccessful in developing with its clients the contacts essential to transportation service, he says:

"We can not contemplate the modern trend in business developments—branch banking, chain stores, and trusts—without admitting that railroad consolidation is a phase of the same

movement. At the same time we are aware that centralization of control has its price. That the price is too high is the opinion of many who are in accord with the views of Commissioner Eastman and Sir Henry Thornton" (p. 166).

#### UNCERTAINTY AS TO EFFECTS OF CONSOLIDATION ON FINANCES OF STRONG ROADS

After discussing the present financial situation of the Baltimore & Ohio and of the Reading, he says:

"Although the present financial position of both the Reading and the Baltimore & Ohio is sound, the wholesale consolidation of railroads would introduce new elements of uncertainty which must be considered.

"Railroad earnings are based primarily on two factors: The volume of traffic and skill of management. The first determines income; the second affects costs. Who knows in what way the regrouping proposed by the commission might alter the flow of traffic? Who can tell with what success the new scheme of management would function?

"The proposal to regroup the railroads into comparatively few systems means combining weak with strong lines, redrafting financial plans, shifting the balance of competition, altering rate divisions, changing the executive personnel, and scrambling both the property and the earning power of carriers. At a time when the competition of water carriers, motors, and airplanes is becoming more decisive; when the rate structure is being revamped in terms of a mileage basis; and when the possibility of unified terminals creates new problems of traffic distribution—the scheme of consolidation adds its share to the confusion. Consolidation probably would not affect the total earnings of the railroads of America, but no one can say what the result might be on specific carriers.

"Not only would the carriers directly involved in a particular consolidation have new traffic and financial problems to face, but connecting lines as well would be concerned" (p. 166).

#### ESTIMATES OF ECONOMIES MERE OPINIONS

Discussing opposing views of economies which may or may not result from consolidations, he remarks that at best the estimates of economies are merely opinions as to what may happen. He notes that in Great Britain, where he believes that in the long run the consolidation will produce substantial economies there is the same difference; on the one hand the claim being made that many advantages have been produced, and on the other the statement of Lord Monkswell:

"The claim which was made that amalgamation would produce large economies \* \* \* is one more illustration of the contempt for the intelligence of the public which is characteristic of the railway hierarchy" (pp. 167-169).

#### OFFSETS TO GROSS ECONOMIES

He balances against possible gross economies, possibility of circuitous routing due to long haul, increased capital, expenditures, and

possibility of financial structures top-heavy with funded debts. He doubts the possibility of much saving in the purchase of equipment; states that the largest economies by way of standardization have already been achieved through the American Railway Association, and that there is a limit to economies in administrative expenses (pp. 167-169).

#### SEES LITTLE HOPE OF RATE REDUCTION FROM CONSOLIDATIONS

He states that the theory that rates may be reduced has few advocates and quotes the following from a statement of Prof. Winthrop M. Daniels of Yale, appearing in the proceedings of the Academy of Political Science, June, 1929 (p. 110):

"There are some things in the act of 1920 about which I wish to say a word or two in the way of adverse criticism. I think it is true that the passage of the act of 1920 with its permission of railroads to consolidate under certain circumstances was based in part upon the Utopian idea that drastic reduction of operating expenses could readily be translated into substantial reductions in the general level of rates. There never was any solid, quantitative reasoning upon which the expectation was based. A wholly superficial assimilation of railroad transportation to industries where mass production and minutely specialized fabrication have yielded astounding reductions in unit costs seems to have prompted this ill-starred illusion. Moreover, experience since the war seems to have established two facts: First, that the notable economies in railroad transportation have been realized in the main through methods that are not remotely connected with company consolidation; and second, that the gains, actual or claimed, for consolidation in the immediate curtailment of aggregate expenses are so modest in measure as to negative the idea that they can be the speedy harbingers of rate reductions. This is not to say that these economies should not be promoted and encouraged through consolidation. But we should cease to entertain unfounded anticipations on this score" (pp. 169-170).

#### CONCLUDES CHIEF MOTIVE OF ADVOCATES OF CONSOLIDATION NOT ECONOMIES BUT CONTROL OF TRAFFIC

Going from financial to practical economics, he summarizes the views of such men as Mr. Daniel Willard, which have been set out in the report here summarized, and reaches this conclusion:

"From opinions gathered from all sources we are convinced that the chief motive of those who advocate consolidations is not the economies that may be expected but the control of traffic that may result" (p. 170).

#### PROPOSED CONSOLIDATIONS

##### NO UNANIMITY OF OPINION

The consolidations proposed by the plan of the commission (159 I. C. C. 522) are discussed briefly in the report, not by way of attempting to analyze the systems proposed, but to demonstrate by setting



out some of the principal differences of opinion, the impracticability of attempting to group the carriers of the country into any set of systems upon which there will be any degree of agreement. Only a few of the subjects of disagreement will be set out here, reference being made to the report for more detailed discussion. (Class I Roads in Systems, pp. 171-175.)

#### NEW ENGLAND

In New England for instance the commission adopts a two-system grouping; Commissioner Porter favors a single system and objects to the allocation of the Delaware & Hudson to the New England groups; Commissioner Eastman does not favor the assignment of the Rutland to the New York Central; Professor Ripley had two different theories (pp. 175-176).

EASTERN TERRITORY—FIVE SYSTEM PLAN; READING; NORFOLK & WESTERN; VIRGINIAN; LEHIGH VALLEY; ERIE; CHESAPEAKE & OHIO; NICKEL PLATE; LACKAWANNA; NEW FOUR-SYSTEM PLAN

In eastern territory there is no end of disagreement. The commission plan provides for five systems and Commissioner Porter advocating four, says:

"Any unbiased mind must be impressed with the absolute futility of the allocation as proposed by the majority."

He would make systems comparable in strength and size to the New York Central and Pennsylvania, while Commissioner Eastman seeing no reason for building up such large systems, suggests seven in addition to the two large ones.

The commission plan and Commissioner Porter would assign the Reading to the Baltimore & Ohio system. Commissioner Eastman would have a separate Reading system. Doctor Kidd at the conclusion of his analysis recommends opposing the Reading-Baltimore & Ohio consolidation.

The Pennsylvania now controls the Norfolk & Western, and has for nearly 30 years. The commission plan places it in the Wabash-Seaboard system. Commissioner Eastman would require its separation from the Pennsylvania. Commissioner Porter would leave it with the Pennsylvania. Professor Ripley recommended its consolidation with the Virginian, but in 1926 the commission denied its application to lease the Virginian on the ground that the roads were highly competitive and the Virginian more properly fitted in with the Baltimore & Ohio. However, under the commission plan the Virginian is assigned to the New York Central.

And so the differences continue, as to the Lehigh Valley, the Erie, the Chesapeake & Ohio, the Nickel Plate and the Lackawanna (pp. 176-178).

#### NEW FOUR-SYSTEM PLAN

Since the preparation of the foregoing it has been announced that the executives of the four leading railroad systems operating in eastern territory have agreed upon a consolidation program calling for the formation of four eastern railroad systems with assignments of the principal Class I roads as follows:

To the New York Central—the Delaware, Lackawanna & Western Railroad, and a direct connection with the Virginian Railway at Deepwater, including joint rates and routes over that railway.

To the Pennsylvania—the Wabash, the Detroit, Toledo & Iron-  
ton, and the Norfolk & Western.

To the Baltimore & Ohio—the Ann Arbor Railroad, the Reading, the Central Railroad of New Jersey, the Western Maryland, Buffalo, Rochester & Pittsburgh, the Buffalo & Susquehanna, the Lehigh & Hudson River, and the Chicago & Alton.

To the Chesapeake & Ohio, Nickel Plate System and the Hocking Valley, will be added the Erie Railroad, the Bessemer & Lake Erie, the Pere Marquette, the Wheeling & Lake Erie, the Chicago & Eastern Illinois and the Lehigh Valley, with certain rights to the Pennsylvania on the Lehigh Valley.

The Grand Trunk western lines are to continue with the Canadian National Railways.

A study of this proposed program has not been completed. However the situation has become still more complicated (pp. 178-180).

#### SUGGESTED PLAN DIFFERS FROM COMMISSION PLAN AND RIPLEY PLAN

In the report are noted differences between the complete plan of the commission and the so-called four-system plan and inconsistencies between the approval of the proposed plan by Professor Ripley and his statements in his report to the Interstate Commerce Commission (p. 180).

#### COMMISSION HAS ORDERED PART OF ROADS PROPOSED TO BE MERGED SEPARATED BECAUSE OF VIOLATION OF CLAYTON ACT

As to the Wabash, assigned to the Pennsylvania, on December 2, 1930, the Interstate Commerce Commission made an order requiring the Pennsylvania Railroad Co. and the Pennsylvania Co. to divest themselves of all capital stock of the Wabash Railway Co. (and Lehigh Valley) upon the ground that there is substantial competition between the Pennsylvania Railroad and the Wabash and that the effect of the acquisition by the Pennsylvania Co., a subsidiary of the Pennsylvania Railroad Co., of the stock of the Wabash may be to substantially lessen competition and is in violation of the Clayton Act. (Commissioner Aitchison dissenting.)

As to the Wheeling & Lake Erie, which under the proposed plan is to be assigned to the Chesapeake & Ohio-Nickle Plate system, the commission, on March 11, 1929 (152 I. C. C. 721), ordered the Baltimore & Ohio Railroad, the New York Central, and the Nickel Plate to divest themselves of stock which they had acquired in this road upon the same grounds. (Commissioners Woodlock, Brainerd, and Porter dissenting.)

As to the Western Maryland, assigned to the Baltimore & Ohio, the commission, on January 13, 1930 (160 I. C. C. 785), ordered the Baltimore & Ohio to divest itself of the stock acquired by it in the Western Maryland for the same reasons. (Commissioners Farrell, Woodlock, and Brainerd dissenting; Commissioner Porter not participating) (p. 183).



## COMMISSION HAD DENIED CHESAPEAKE &amp; OHIO-NICKEL PLATE-ERIE MERGER

As to the Erie, assigned to the Chesapeake & Ohio-Nickel Plate system, the commission on May 8, 1928 (138 I. C. C. 517) denied the application of the Chesapeake & Ohio to acquire control of the Erie on the ground that such acquisition would not be in the public interest. By this decision authority was given to acquire control of the Pere Marquette. (Commissioner Porter dissenting from denial of acquisition of Erie; Commissioners Campbell and Eastman dissenting from order allowing acquisition of Pere Marquette; Commissioner Woodlock not voting on Erie and Pere Marquette acquisitions.)

On March 2, 1926, the commission had denied an application of the New York, Chicago & St. Louis Railway Co., a new corporation, to acquire control of the Chesapeake & Ohio, Hocking Valley, Erie, Pere Marquette, and Nickel Plate on the grounds that the consideration, terms, and conditions of the proposed acquisition of control were not just and reasonable. However, control had been secured of all the roads mentioned through various Van Sweringen companies at the time of the last decision (p. 183).

## HOLDING COMPANY OPERATIONS

As set out in the report of the commission in 138 I. C. C. 517, after the denial, in 1926, of the application for unification of the Chesapeake & Ohio, Hocking Valley, Erie, Pere Marquette, and Nickel Plate, the Chesapeake Corporation, organized in May, 1927, with O. P. Van Sweringen as president, acquired a majority of the common stock of the Chesapeake & Ohio which had originally been purchased by the Nickel Plate, its subsidiary, the Special Investment Corporation, and the Vaness Co. The Chesapeake Corporation issued its capital stock ratably to the common shareholders of the Nickel Plate and of the General Securities Corporation which represented the Vaness Co. The Vaness Co. holding a majority of the Nickel Plate voting stock, and a majority of its stock being owned by O. P. and M. J. Van Sweringen, they controlled the Chesapeake & Ohio by their interest in the stock of the Chesapeake Corporation. The majority of the stock of the Erie had been acquired by the Virginia Transportation Corporation, another Van Sweringen company, and the Vaness Co., and 40.5 per cent of the Pere Marquette stock was held by the Virginia Transportation Co., the Vaness Co. and the Nickel Plate (p. 183).

Under the proposed plan, certain Class I roads are to be jointly controlled.

## CLASS II AND CLASS III ROADS

No announcement was made as to proposed distribution or acquisition of Class II and Class III roads.

There are in eastern territory 66 Class II and III roads, 10 miles or more in length, which are not now subsidiaries of other systems.

A list of these roads with the mileage of each, average net railway operating income for the years 1927-1929 and a record of dividends

declared in the same years is included in the report. For the years 1927-1929 these roads are classified as to rate of return as follows:

Rate of return	Number of roads	Mileage	Rate of return	Number of roads	Mileage
Over 4 per cent.....	18	451.98	1 per cent to 2 per cent.....	6	218.55
3 per cent to 4 per cent.....	9	289.99	Under 1 per cent.....	8	1 458.22
2 per cent to 3 per cent.....	7	200.93	Deficits.....	18	1 473.25

<sup>1</sup> 2 roads 270.57.

<sup>2</sup> 9 roads under 20 miles in length and only 1 over 50 miles.

Of these 66 roads, 14 paid dividends for the 3 years 1927-1929, 5 for 2 out of the 3 years, and 4 for 1 out of the 3 years (pp. 183-184).

## PROSPEROUS CLASS I ROADS INCLUDED IN PROPOSED MERGERS

The Reading has, since 1913, paid a 4 per cent dividend on its \$50 par value first preferred stock, 4 per cent on its \$50 par value second preferred stock, and 8 per cent on its \$50 par value common stock. The Central of New Jersey paid dividends of 12 per cent for six years ending December 31, 1929. The Lehigh Valley has, since 1904, paid 10 per cent on its preferred stock and an average of 8 per cent on its common stock and has set up a surplus in excess of the par value of its common stock. The Lackawanna has, since 1921, declared dividends of not less than 12 per cent and set aside a substantial amount as surplus. These roads can, therefore, all be classed as prosperous roads (p. 184).

## SOUTHERN TERRITORY

In southern territory there is not so much contention (p. 191).

## WESTERN TERRITORY—GREAT NORTHERN; NORTHERN PACIFIC; BURLINGTON; WESTERN PACIFIC

In western territory the proposed Great Northern Pacific merger overshadows all others. The application of the new company to acquire the two northern roads was bitterly contested. The commission finally granted the application upon certain conditions, one of which was the divorce of the two roads from the Burlington, their Chicago connection and great feeder. On the petition of the utilities commissions of 10 States and of other bodies, the matter was on October 13, 1930, reopened for further hearing. Strong dissenting opinions were handed down with the original order. By the separation of the Burlington from the northern roads, the entire western situation was complicated. There is disagreement as to the proper allocation of the Western Pacific and Denver & Rio Grande, the Missouri-Kansas-Texas and the Kansas City Southern (pp. 191-192).

On January 9, 1931, it was announced by the officials of the Great Northern and Northern Pacific roads that the project to merge those roads had been abandoned.

## SHORT LINES NOT DISCUSSED

The short lines are not discussed. Whether they have been placed where they wish to go, whether they are wanted by their plan-created parents, or whether anyone will take them is not known.

## FEW APPLICATIONS FOR APPROVAL OF CONSOLIDATIONS ACCORDING TO PLAN

Of 15 applications for acquisition of control pending November 1, 1930, nearly a year after the publication of the plan, 3 were for mileage to be constructed, 2 involved the Great Northern Pacific controversy, 1 was for the lease by the Missouri Pacific of its subsidiary lines, and 1 was the application of the Southern Pacific for the purchase of stock of the St. Louis Southwestern which was assigned by the commission plan to the Illinois Central system (pp. 192-193).

## HOLDING COMPANIES

The most marked deficiency in the law relating to consolidations is the lack of any statutory authority in the Interstate Commerce Commission to regulate unifications of carriers accomplished through stock ownership or control by so-called holding companies. Attention has been called to this by the commission for several years and, with the acuteness of the situation increasing, the commission called special attention to the subject in its 1929 report (pp. 79-83). The observations of the commission are quoted in the full report. These fully present the situation.

A complete investigation and study of the problem is now being made by the Committee on Interstate and Foreign Commerce of the House, which when completed will be available to Congress, and a superficial discussion in this report would be useless (pp. 193-197).

## PRESENT PROPOSED LEGISLATION

There is before this committee for consideration S. 668, and before the House committee H. R. 3208. S. 668 is identical with S. 5817, which was introduced in the Seventieth Congress and reported favorably, except that S. 5817 contained a provision for the condemnation of the property of a carrier when unreasonable terms were insisted upon and the commission should determine that condemnation was in the public interest. This provision and the minor amendments necessary to make other parts of the bill conform do not appear in S. 668 (p. 197).

There are some differences between the House and Senate bills which are discussed in the report (pp. 198-199).

The analysis of S. 668 set out in the report can not well be summarized. Very briefly, its provisions fall into three classes:

1. Provisions, dealing principally with matters of procedure, concerning which, if any consolidation legislation is to be adopted, there is little dispute, and which remedy many of the defects claimed to exist in the present law.

2. Provisions differing somewhat from the provisions of the House bill dealing with the same subject.

3. Provisions involving questions of policy.

Referring only to the most important of the third class:

1. It is questionable whether section 207 sufficiently authorizes the commission to impose as a condition of approval of a unification the acquisition of carriers not joining in the petition; and if sufficient whether the section is effective, especially in the absence of a provision for condemnation (pp. 200-201).

2. There are omitted from the proposed legislation three elements considered basic at the time of the passage of the original act.

- (a) There is no requirement that consolidations conform to a plan.

- (b) There is no requirement that in the division of railways into systems competition shall be preserved as fully as possible.

- (c) There is no requirement that existing routes and channels of trade be maintained, in fact, there is not even a reference to such maintenance (pp. 202-203).

In place of these requirements of the original law, there is substituted the general test of the promotion of public interest, and the maintenance of competition is merely one element to be considered in determining public interest. It does not require the maintenance of existing competition but merely that there must be competition after a unification if there is competition before the unification—in other words, a new competition substituted for the old—and this, not as a prerequisite, but merely as an element of public interest to be considered.

The omission of a provision requiring the maintenance of existing routes and channels of trade is worthy of the most careful deliberation. Not only is there no admonition to the commission, but a serious question would arise, in view of its omission from the new law, as to the right of the commission to impose any such condition in an order of approval (pp. 204-206).

3. The exemption from the antitrust laws contained in the present act is carried forward and elaborated. In view of past action of the commission, and in view of some of the expressions quoted in the report, the matter of such exemption should receive careful consideration (p. 206).

4. The provision for a complete plan which must be followed is omitted, and there is substituted a provision for a plan which is to be used by the commission upon unification petitions. What efficacy such a plan might have is a matter of conjecture (pp. 206-207).

The bill omits to make any provision for the regulation of holding company operations, and wholly omits any provisions for the protection of the interests of labor (p. 207).

The legislation being intended to provide for a voluntary system of consolidation only, there are, of course, no provisions compelling the formation of systems such as were contemplated in the original act, and no compulsion, direct or indirect, except as may be provided by section 207, upon any strong carrier to acquire any short or weak line (p. 207).

## CONCLUSIONS

1. That there is a diversity of opinion as to the policy of railroad consolidations and as to the provisions of existing law and of proposed legislation dealing with that policy.
2. That the consolidation provisions of the transportation act were based upon the following propositions:
  - (a) That the same rates must be charged by all carriers in any given competitive territory for similar service.
  - (b) That average rates must be fixed, based on the average condition of all carriers in any given competitive territory, as a whole.
  - (c) That without equalization as between the carriers in such territory average rates would result in inequalities of return, giving excessive rates to the strong and inadequate rates to the weak.
  - (d) That equalization between the carriers could be secured by combining strong and weak roads into systems, these systems to be of approximately equal strength so that average rates would produce a fair return and substantially the same rate of return on investment for each system.
  - (e) That this method would not only permit average rates without inequality of return, but would permit the weak roads, a necessary part of the transportation system of the country, to live.
  - (f) That such a program of equalization could be carried out by having the Interstate Commerce Commission prepare a plan by which all the carriers of the country should be grouped in a limited number of systems, and that after the preparation of such a plan the carriers would consolidate in accordance with it.
  - (g) That by the carrying out of this program the entire transportation system of the country would be strengthened.
3. That the sponsors and supporters of the consolidation provisions anticipated additional benefits from the program, such as economies of operation of the carriers, improved car service, better handling of traffic, lower and more scientific rates of transportation, more equitable adjustment of rates between commodities, simplified and improved rate regulation, adequate service for all communities and rehabilitation of the credit of railroads with more economical and convenient financing.
4. That it was the intention of Congress that existing competition (and not competition between the new systems) should be preserved as fully as possible and that the principal lines of the country should be maintained as separate competing organizations by which the weaker complementary lines would be taken in.
5. That the exemption from the provisions of the antitrust laws was not intended to reverse the national policy as to trusts and monopolies and facilitate consolidations by which monopolies would be created but only to facilitate consolidations necessary to realize the purpose of the act, involving minor violations of such laws.

6. That the consolidation legislation has not and can not accomplish its original purpose, for the following reasons:
  - (a) Equalization between carriers, so that average rates will produce substantially the same rate of return for each, by consolidation, can only be accomplished by grouping *all* carriers in any given competitive territory in systems.
  - (b) Such a grouping can only be made by formulating a plan, which must then be followed.
  - (c) Opinion is practically unanimous that the provision for such a plan is impracticable.
  - (d) A complete grouping will not be carried out under a voluntary system because the strong roads refuse to take over weak roads unless the transactions are commercially justifiable.
  - (e) A compulsory system can not be put into effect because one carrier can not be compelled to acquire another.
  - (f) In view of the position of the stronger roads as to the acquisition of unprofitable weak roads, and in the light of the history of the past ten years, there exists no reasonable ground for belief that the weak road problem will be solved by a policy of consolidation.
7. That there is no definite evidence that consolidations will result in substantial economies.
8. That there is no substantial evidence that consolidations will produce any reduction of rates.
9. That a program of consolidation providing for the grouping of carriers into provisional systems under a complete plan with provisions for adjustment of income within each system on a recapture basis might assist the weak roads generally. That such a plan is objected to as amounting to compulsion, and is further subject to the same objections as the present recapture law and the present provision for a complete plan, and might be of doubtful constitutionality.
10. It is the opinion of many students of traffic problems that consolidations will result in certain benefits such as longer hauls on same system, cheaper financing, simplified accounting and reports, more flexibility in routing, avoidance of switching, longer full train hauls, opportunity to purchase on larger scale, standardization of equipment, lessened number of repair shops, more cars "at home" on system, and less labor. There is no strong contention that such benefits will result in any substantial financial economies.
11. That the greatest benefits of consolidations now contemplated will accrue to lines already strong, who are seeking largely to acquire other strong lines and thus build up their systems, rather than to take in weak lines.
12. That such a program of consolidation may tend to further weaken weak lines through closing of through routes and withdrawal of traffic.
13. That labor will probably suffer from such consolidations as are now sought, unless some protection is afforded employees.
14. That the limitation of open gateways and the possible closing of through routes after consolidations may deprive shippers of the benefits of competition in service.
15. That there is no particular objection to unifications such as were effected prior to the passage of the transportation act, subject to the



antitrust laws, and with no substantial reduction of competition or substantial closing of routes and channels of trade.

16. That there is substantial opposition to consolidations which violate the antitrust acts, raising a question whether the exemption of consolidations from the antitrust laws should be continued.

17. That such opposition would probably not extend to acquisitions of short and weak lines.

18. That if consolidation legislation is to be continued, provision should be made for the protection of employees, and for the regulation of holding companies.

19. That if consolidation legislation is to be continued, additional legislation and amendments as to procedure, of the character set out in S. 668, should be adopted.

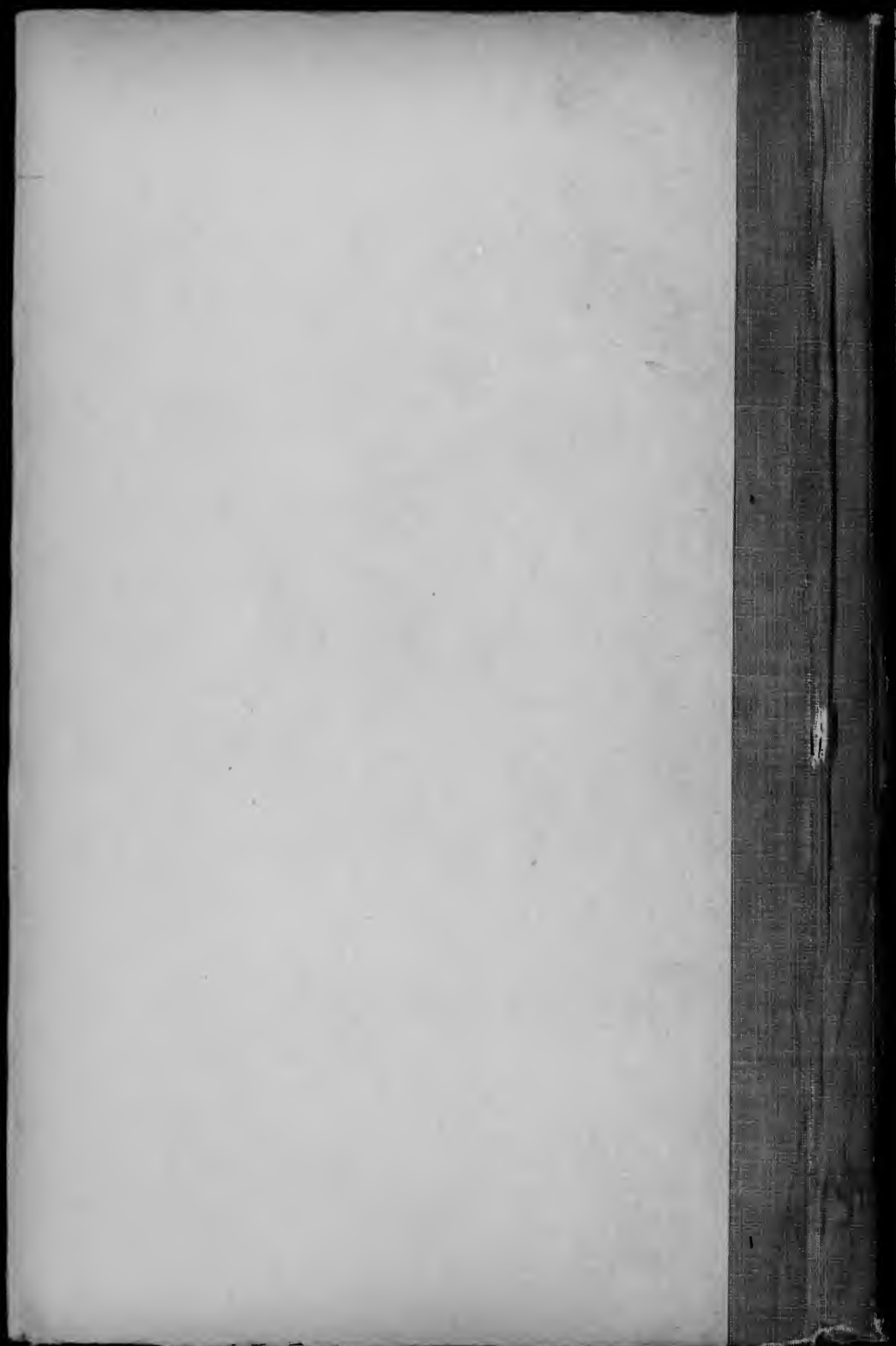
20. That it does not appear, in the public interest, that the provisions of existing law as to the maintenance of routes and channels of trade and the preservation of existing competition should be repealed or weakened.

21. That a study of the records, hearings, and experience of the past ten years does not disclose a situation requiring in the public interest further encouragement of a comprehensive program of consolidation as contemplated by the transportation act.

22. That regulatory legislation should be continued or enacted giving the Interstate Commerce Commission full control of permissible unifications.

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